

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 4

In the Matter of:

Erwin Plant, LLC

Respondent.

Docket No. **TSCA-04-2021-3200(b)**

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 16(a) of the Toxic Substances Control Act (TSCA or the Act), 15 U.S.C. § 2615(a), and Sections 22.13(b) and 22.18 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 Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 16(a) of TSCA, 15 U.S.C. § 2615(a).
5. Respondent is Erwin Plant LLC (“Erwin”), a limited liability company organized under the laws of the State of North Carolina. Erwin owns a former textile plant located at 200 North 13th Street, Erwin, North Carolina (“Facility”).

III. GOVERNING LAW

6. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of the 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 Section 15 of TSCA, 15 U.S.C. § 2614, may be assessed a civil penalty in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19, as amended. Each day a violation continues may constitute a separate violation.

7. The term “PCB Transformer” is defined in 40 C.F.R. § 761.3, as any transformer that contains \geq 500 ppm PCBs.
8. The term “PCB Item” is defined in 40 C.F.R. § 761.3, 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.
9. The term “PCB Article” is defined in 40 C.F.R. § 761.3, as any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. “PCB Article” includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB Article.
10. The term “PCB Waste” is defined in 40 C.F.R. § 761.3, as those PCBs and PCB Items that are subject to the disposal requirements of subpart D of this part.
11. The term “Generator of PCB Waste” is defined in 40 C.F.R. § 761.3, as any person whose act or process produces PCBs that are regulated for disposal under subpart D of this part, or whose act first causes PCBs or PCB Items to become subject to the disposal requirements of subpart D of this part, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated and therefore is subject to the disposal requirements of subpart D of this part. Unless another provision of this part specifically requires a site-specific meaning, “generator of PCB waste” includes all of the sites of PCB waste generation owned or operated by the person who generates PCB waste.
12. Pursuant to 40 C.F.R. § 761.65(b)(1), PCB Items designated for disposal must be stored in an area with an adequate roof, walls, and non-porous floor with curbing.
13. Pursuant to 40 C.F.R. § 761.65(c)(5), all PCB Items in storage are required to be checked for leaks at least once every 30 days. Records of those inspections are required to be maintained in accordance with 40 C.F.R. §§ 761.180(a) and (b).
14. Pursuant to 40 C.F.R. § 761.65(c)(8), PCB Items are required to be marked with the date when they were removed from service for disposal.
15. Pursuant to 40 C.F.R. §§ 761.40(a)(10), 761.40(h) and 761.65(c)(3), storage areas used to store PCBs and PCB Items for disposal are required to be marked as illustrated in 40 C.F.R. § 761.45(a).
16. Pursuant to 40 C.F.R. § 761.65(a)(1), any PCB Waste must be disposed of as required by Subpart D of the PCB regulations within 1-year from the date it was determined to be PCB waste and the decision was made to dispose it.

17. Pursuant to 40 C.F.R. § 761.205(c)(2), generators of PCB waste subject to the storage requirements of 40 C.F.R. §§ 761.65(b) or (c)(7) are required to notify EPA of their PCB waste activities by filing EPA Form 7710-53.
18. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and other uncontrolled discharges of PCBs greater or equal to 50 ppm constitutes disposal of PCBs.
19. PCB liquids at concentrations \geq 50 ppm that have been spilled must be cleaned up and disposed of as directed in 40 C.F.R. § 761.60(a).

IV. FINDINGS OF FACTS

20. In 2001, Respondent purchased the Facility that formally operated as a textile mill. The Facility consists of approximately 56 acres. Textile operations were terminated prior to Respondent's purchase of the Facility. During Respondent's ownership of the Facility, portions of the Facility property have been leased to third parties, primarily for storage purposes.
21. On November 21, 2019, an authorized agent of the EPA Region 4 conducted an inspection at the Facility pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, to determine the Facility's compliance with the PCB regulations.
22. At the time of the inspection, the following ten (10) out of service PCB Items were being stored for disposal at the Facility:
 - a. General Electric (GE) Pyranol 750 KVA PCB Transformer (#3), containing 375 gallons of PCB liquids;
 - b. GE Pyranol 750 KVA PCB Transformer (#4), containing 340 gallons of PCB liquids;
 - c. GE Pyranol 750 KVA PCB Transformer (#7), Serial #: C-8556390, containing 340 gallons of PCB liquids;
 - d. GE Pyranol 750 KVA PCB Transformer (#16), Serial #: C-864352C, containing 340 gallons of PCB liquids;
 - e. GE Pyranol 750 KVA PCB Transformer (#17), containing 320 gallons of PCB liquids;
 - f. GE Pyranol 2000 KVA PCB Transformer (#19), Serial # E-692923, containing 400 gallons of PCB liquids;
 - g. GE Pyranol 2500 KVA PCB Transformer (#26), Serial # H-885025, containing 279 gallons of PCB liquids;
 - h. GE Pyranol 750 KVA PCB Transformer (#27), Serial # H-883990, containing 191 gallons of PCB liquids;
 - i. GE Pyranol 1500 KVA PCB Transformer (#29), Serial # H-885026, containing 187 gallons of PCB liquids; and

- j. GE Pyranol 1500 KVA PCB Transformer (#30), Serial # H-885583, containing 187 gallons of PCB liquids.
23. The aforementioned PCB Items were removed from service no later than 2009 and were not placed back into service thereafter.
24. At the time of the inspection, the EPA observed that Respondent had failed to:
- a. Conduct and/or document inspections checking for leaks at least once every 30 days for all PCB Transformers in storage, as required by 40 C.F.R. § 761.65(c)(5) and Section 15 of TSCA, 15 U.S.C. § 2614.
 - b. Have a proper storage area with an adequate roof, walls, and non-porous floor with curbing for all the PCB Transformers as required by 40 C.F.R. § 761.65(b)(1) and Section 15 of TSCA, 15 U.S.C. § 2614.
 - c. Mark all the storage areas used to store PCB Transformers with the appropriate PCB label, except the area where the #29 transformer was being stored, as required by 40 C.F.R. §§ 761.40(a)(10), 761.40(h), 761.65(c)(3) and Section 15 of TSCA, 15 U.S.C. § 2614.
 - d. Mark all the PCB Transformers with the date when they were removed from service for disposal, as required by 40 C.F.R. § 761.65(c)(8) and Section 15 of TSCA, 15 U.S.C. § 2614.
 - e. Dispose all the PCB Transformers within 1-year from the date the PCB Transformers were determined to be PCB waste, as required by 40 C.F.R. § 761.65(a)(1) and Section 15 of TSCA, 15 U.S.C. § 2614.
 - f. Notify the EPA of PCB waste activities by filling out and submitting EPA Form 7710-53, as required by 40 C.F.R. § 761.205(a) and Section 15 of TSCA, 15 U.S.C. § 2614.
25. In 2020, analytical results for soil sampling conducted at the Facility showed the presence of PCBs at greater than 50 mg/kg in the soils around the pads where PCBs Transformers #4, #9, #11, #26, #29 and #30 were formerly located.
26. In 2020, analytical results for samples collected from the concrete pads where PCB Transformers #3, #26, #27, #29 and #30 were previously located at the Facility showed concentrations of PCBs greater than 50 mg/kg PCBs.
27. The presence of PCBs in the soils and concrete pads where the PCB Transformers were formerly located indicate that spills and other uncontrolled discharges of PCBs greater or equal to 50 ppm had occurred prior to, and/or during the removal of the transformers from the Facility for disposal in 2020. Pursuant to 40 C.F.R. § 761.50(a)(4), spills, discharges, and releases of PCBs constitute improper disposal of PCBs.

28. In March and April 2020, Respondent's environmental consultant oversaw the proper removal and disposal of the remaining PCB Items present at the Facility. Respondent has been cooperative with the EPA in resolving the violations alleged herein.

V. ALLEGED VIOLATIONS

29. Based on the EPA's inspection described in paragraph 21, the EPA alleges that Respondent failed to:

- a. Conduct and/or document inspections checking for leaks at least once every 30 days for all PCB Transformers in storage, in violation of 40 C.F.R. § 761.65(c)(5) and Section 15 of TSCA, 15 U.S.C. § 2614;
- b. Have a proper storage area with an adequate roof, walls, and non-porous floor with curbing for all the PCB Transformers in violation of 40 C.F.R. § 761.65(b)(1) and Section 15 of TSCA, 15 U.S.C. § 2614;
- c. Mark all the storage areas used to store PCB Transformers, except the area where the #29 transformer was being stored, with the appropriate PCB label, in violation of 40 C.F.R. §§ 761.40(a)(10), 761.40(h), and 761.65(c)(3), and Section 15 of TSCA, 15 U.S.C. § 2614;
- d. Mark all the PCB Transformers, with a date when they were removed from service for disposal, in violation of 40 C.F.R. § 761.65(c)(8) and Section 15 of TSCA, 15 U.S.C. § 2614;
- e. Dispose all the PCB Transformers, within 1-year from the date the PCB Transformers were determined to be PCB Waste, in violation of 40 C.F.R. § 761.65(a)(1) and Section 15 of TSCA, 15 U.S.C. § 2614;
- f. Notify the EPA of PCB Waste activities by filling out and submitting EPA Form 7710-53, in violation of 40 C.F.R. § 761.205(a) and Section 15 of TSCA, 15 U.S.C. § 2614.

30. Based on the soil and concrete PCB sampling results from 2020, referenced in paragraphs 25-26 above, the EPA alleges that PCBs were improperly disposed at the Facility prior to and during the time that Respondent owned, operated and/or controlled and managed the Facility, in violation of 40 C.F.R. § 761.50(a)(4) and Section 15 of TSCA, 15 U.S.C. § 2614.

VI. STIPULATIONS

31. The issuance of this CAFO simultaneously commences and concludes this proceeding pursuant to 40 C.F.R. § 22.13(b).

32. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
- f. waives its rights to appeal the Final Order accompanying this CAFO.

33. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any rights it may possess at or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action;
- d. by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, with the exception of the disposal violation set forth in paragraphs 27 and 30 above, have been corrected. As of the Effective Date of this CAFO, Respondent is continuing the process of correcting the disposal violation by conducting soil cleanup activities at the Facility pursuant to a PCB cleanup Approval issued by the EPA to Erwin Plant LLC on March 25, 2021. Respondent anticipates that it will complete the cleanup activities in approximately September or October 2021;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of the CAFO.

34. Respondent reserves its rights to dispute the findings of fact and alleged violations in any future proceedings other than enforcement of this CAFO.

35. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

36. Respondent is assessed a civil penalty of **NINETY-FOUR THOUSAND NINE HUNDRED DOLLARS (\$94,900.00)**, which shall be paid within thirty (30) calendar days of the Effective Date of this CAFO.
37. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent(s) send(s) payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Code: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact number: (314) 425-1819

If paying by EFT, Respondent shall transfer the payment to: |

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking Physical
location of US Treasury facility:

5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

38. Respondent shall send proof of payment within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Kris Lippert
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
lippert.kristin@epa.gov

39. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and “Docket No. TSCA-04-2021-3200(b).”
40. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days of the Effective Date of this CAFO, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
 - b. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-

payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).

- c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

41. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- a. refer the debt to a credit reporting agency or a collection agency 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. request that the Attorney General bring a civil action in the appropriate district court to recover the amount assessed, in addition to the amounts described above. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review. Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

42. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

43. This CAFO constitutes a settlement by the EPA of all claims for federal civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the specific violations alleged herein, including the disposal violation, through the Effective Date of this CAFO. In the event that the cleanup activities being conducted by Respondent as described in Paragraph 33(d) above are not satisfactorily completed pursuant to the cleanup Approval, or Respondent terminates or abandons the cleanup, the EPA may bring a separate, additional enforcement action for disposal violations that occur or continue after the Effective Date of this CAFO, and nothing in this CAFO is intended to waive the EPA's right to initiate such enforcement action.

44. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).

45. Any violation of this CAFO may result in a civil judicial action for civil penalties as provided in Section 16(a) of the Act, 42 U.S.C. § 2615(a), as well as criminal sanctions as provided in Section 16(b) of the Act, 42 U.S.C. § 2615(b). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.
46. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
47. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
48. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both (the) Parties, and approval of the Regional Judicial Officer.
49. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.
50. Any change in the legal status of Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
51. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential information under Section 14 of TSCA, 42 U.S.C. § 2613, and 40 C.F.R. Part 2 and the Freedom of Information Act (FOIA) or personally identifiable information.
52. By signing this Consent Agreement, Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
53. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
54. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
55. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was

materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

56. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

57. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

IX. EFFECTIVE DATE

58. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages]

The foregoing Consent Agreement In the Matter of **Erwin Plant, LLC**, Docket No. **TSCA-04-2021-3200(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT, ERWIN PLANT LLC:

Howard F. Auman Jr., manager
Signature _____ Date _____

Printed Name: HOWARD F. AUMAN JR., MANAGER

Title: manager of Erwin Plant LLC

Address: 611 PREYS ST., GREENBORO, N.C. 27410

The foregoing Consent Agreement In the Matter of **Erwin Plant, LLC**, Docket No. **TSCA-04-2021-3200(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Erwin Plant, LLC

Respondent.

Docket No. **TSCA-04-2021-3200(b)**

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of Erwin Plant, LLC, Docket No. TSCA-04-2021-3200(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Charles M. Ivey, III
Ivey, McClellan, Siegmund, Brumbaugh & McDonough
100 S. Elm Street, Suite 500
P.O. Box 3324
Greensboro, North Carolina 27402
cmi@iveymcclellan.com
(336) 274-4658

Joseph A. Ponzi
2000 Renaissance Plaza
230 North Elm Street
Greensboro, North Carolina 27401
jponzi@brookspierce.com
(336) 271-2560

To EPA: Kris Lippert, Senior Enforcement Specialist
lippert.kristin@epa.gov
(404) 562-8605

Robert Caplan, Senior Attorney
caplan.robert@epa.gov
(404) 562-9520

U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Shannon L. Richardson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960