



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 14 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Michael A. Goodroe
President/Chief Executive Officer
Sawnee EMC
P.O. Box 266
Cumming, Georgia 30028

SUBJ: Docket No. TSCA-04-2013-2901(b)
Sawnee EMC

Dear Mr. Goodroe:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties pursuant to Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Pursuant to Section 37 of the CAFO, the assessed penalty of \$4,500 is due within 30 days after the effective date of the CAFO. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case. Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency, Cincinnati Accounting Operations address identified in the CAFO.

Should you have any questions about this matter or your compliance status in the future, please feel free to contact me at (404) 562-9744 or Raj Aiyar at (404) 562-8993.

Sincerely,

A handwritten signature in blue ink that reads "CÉSAR A. ZAPATA".

César A. Zapata
Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

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HEARING CLERK

In the Matter of:)
)
Sawnee EMC) Docket No. TSCA-04-2013-2901(b)
543 Atlanta Highway)
Cumming, Georgia 30040)
)
Respondent)
_____)

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 Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Sawnee EMC.
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 the EPA Delegation 12-2-A, dated May 11, 1994. The EPA Region 4 Regional Administrator has redelegated this authority to the Director of the Resource Conservation and Recovery Act (RCRA) Division by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009.

Pursuant to that Delegation, the Director of the RCRA Division has the authority to commence an enforcement action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and the Respondent.

3. Complainant and Respondent 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 (CA/FO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), 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 a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.

5. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-8993

III. Specific Allegations

6. Respondent was the owner of PCB Items as defined in 40 C.F.R. § 761.3, operating in the State of Georgia and is a “person” as defined in 40 C.F.R. § 761.3.
7. On or about November 8, 2011, an inspection was conducted by a representative of the EPA at the Respondent’s facility located at 543 Atlanta Highway, Cumming, Georgia, to determine compliance with the PCB regulations. At the time of inspection the facility was in operation.
8. Pursuant to 40 C.F.R. § 761.40(a)(10), storage areas used to store PCBs and PCB items shall be properly marked with a PCB M_L label. In 1990, the Respondent notified the EPA that it was a PCB generator. The Respondent stores all their PCB items for disposal in a designated PCB storage area. The EPA inspector observed an unmarked drum containing a PCB transformer stored in the PCB storage area during the inspection. The PCB storage area was not properly marked with PCB M_L label. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.40(a)(10).
9. Pursuant to 40 C.F.R. § 761.65(b), all PCB items designated for disposal must be stored in an area with an adequate roof, walls and a non-porous floor with a minimum 6 inch curbing.

During the inspection, the EPA inspector observed that Sawnee EMC's PCB storage area did not have continuous 6 inch high curbing. Therefore, the EPA alleges that the Respondent violated 40 C.F.R § 761.65(b).

10. Pursuant to 40 C.F.R. § 761.65(c)(5), PCB items stored for disposal shall be checked for leaks at least once every 30 days. Records of inspection, maintenance, cleanup and disposal must be maintained in accordance with 40 C.F.R. § 761.180(a). During the inspection, the EPA inspector observed PCB items stored in the storage area including an unlabeled drum containing a PCB transformer. The EPA inspector determined that the Respondent had not been performing inspections of the PCB items stored in the PCB storage every 30 days. The records of inspections, maintenance, cleanup and disposal were not maintained at the facility. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.65(c)(5).
11. Pursuant to 40 C.F.R. § 761.207(a), a generator of PCB waste who relinquishes control over PCB waste for commercial off-site storage or off-site disposal shall prepare a manifest on EPA Form 8700-22 and use the correct EPA ID Number that was assigned to the generator to properly manifest PCB wastes for transport and/or disposal. During the records review at the facility, the EPA inspector observed incorrect EPA Identification (ID) Numbers on several of Respondent's manifests. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.207(a).
12. Pursuant to 40 C.F.R. § 761.180(a), the facility is required to maintain all relevant records including annual records on the disposition of PCBs and PCB items and maintain annual document logs for all PCBs and PCB items that were handled as PCB waste at the facility. During the inspection, the EPA inspector requested three years of records for review, including copies of PCB annual records (manifests and certificates of disposal). The

Respondent provided incomplete and inaccurate records and also was unable to provide three years of annual document logs. Therefore, the EPA alleges that the Respondent violated 40 C.F.R § 761.180(a).

IV. Consent Agreement

13. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
14. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
15. Pursuant to 15 U.S.C. § 2615(a), TSCA Section 16(a), and in consideration of the nature of the alleged violation, the EPA has determined that an appropriate civil penalty to settle this action is in the amount of FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500).
16. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in Section V of this CAFO.
17. 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 found in 40 C.F.R. Part 761.
18. Provided that Respondent timely pays the penalty required under this CAFO, this CAFO constitutes a final settlement by the EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the specific violations alleged herein. Except as specifically provided in this CAFO, the EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by the EPA, and it is Respondent's responsibility to comply with said laws and regulations.

19. Complainant and Respondent 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

20. Respondent is assessed a civil penalty of FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500), which shall be paid within 30 days from the effective date of this CAFO.
21. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

Alternatively, for payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), Respondent shall send the check to the following address:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

The check shall reference on its face the name of the

Respondent and Docket Number of this CAFO.

At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, 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

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

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

22. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
23. Pursuant to 31 U.S.C. § 3717, the 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.

24. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
25. This CAFO shall be binding upon the Respondent, its successors and assigns.
26. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

27. 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:

Respondent: Sawnee EMC
Docket No.: TSCA-04-2013-2901(b)

By: Michael A. Goode (Signature) Date: 02/5/13

Name: MICHAEL A. GOODE (Typed or Printed)

Title: PRESIDENT AND CEO (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 3/2/13

G. Alan Farmer
Director
RCRA Division
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 11 day of March, 2013.

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Sawnee EMC Docket Number: TSCA-04-2013-2901(b), to the addressees listed below.

via Certified Mail, Return Receipt Requested

Mr. Gary Mauldin
Sawnee EMC
543 Atlanta Highway
Cumming, Georgia 30040

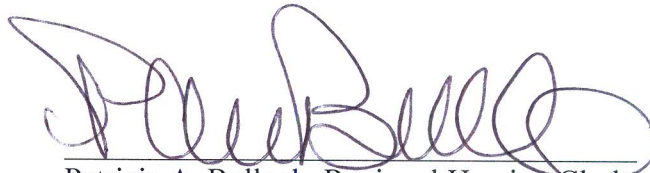
via EPA's internal mail

Robert Caplan
Senior Attorney
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

via EPA's internal mail

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Date: 3-14-13



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303