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BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: )  
Chilkoot Lumber Company, Inc. and )  
L. Edward Lapeyri )  
Respondents. )  
\_\_\_\_\_ )

DOCKET NO. TSCA-10-2010-0253  
**CONSENT AGREEMENT AND  
FINAL ORDER**

I. AUTHORITIES

1.1. This Consent Agreement and Final Order (CAFO) is issued pursuant to 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). The Administrator has delegated the authority to issue the Final Order contained in Part V of the CAFO to the Regional Administrator, who in turn has redelegated this authority to the Regional Judicial Officer.

1.2. In accordance with § 22.18 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA (Complainant) hereby issues, and Chilkoot Lumber Company, Inc. and L. Edward Lapeyri (Respondents) hereby agree to the issuance of, the Final Order contained in Part V of this CAFO.

## II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. § 22.14, Complainant filed a complaint against Respondents on September 28, 2010 for violations of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), for failure to comply with the PCB Regulations. Issuance of this CAFO will conclude the proceeding when the Final Order in Part V of this CAFO becomes effective.

2.2. The factual basis for the alleged violations of TSCA, together with specific references to the provisions of TSCA and implementing regulations Respondent is alleged to have violated, are set forth in Part III of the complaint.

## III. CONSENT AGREEMENT

3.1. Respondents admit the jurisdictional allegations contained in the Part III of the complaint.

3.2. Respondents neither admit nor deny the specific factual allegations contained in Part III of the complaint.

3.3. Respondents expressly waive any right to contest the allegations and to appeal the Final Order contained herein.

3.4. The provisions of this CAFO shall bind Respondents and their agents, servants, employees, successors, and assigns.

3.5. Except as provided in Paragraph 3.10, below, each party shall bear its own costs in bringing or defending this action.

3.6. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant has determined, and Respondents agree, that an appropriate penalty to settle this action is NINE THOUSAND FIVE HUNDRED DOLLARS (\$9,500). This penalty amount is based on the statutory penalty criteria in Section 16(a)(1)(B) of TSCA, 42 U.S.C. § 2615(a)(1)(B), EPA's

April 9, 1990 *Polychlorinated Biphenyls (PCB) Penalty Policy*, and other relevant factors including consideration of Respondents' ability to pay. Respondents consent to payment of the civil penalty, with interest assessed pursuant to 40 C.F.R. § 13.11, according to the following schedule:

<b>Installment Payment Due Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Total</b>
Installment 1: 30 days from effective date	\$3,000		\$3,000
Installment 2: 1 year from effective date	\$6,500	\$65	\$6,565

If any installment payment is received more than 30 days after it is due, the entire amount of this debt will become immediately due and payable, with interest thereon from the effective date of the CAFO, at the option and sole discretion of Complainant. If Respondent CLC is sold or ownership interests are transferred during the period of the above-described installment payment schedule, the remaining principal and accrued interest shall be due and payable as of the effective date of the sale or transfer. Respondents may pay any portion of the civil penalty earlier than the payment schedule set forth in this paragraph.

3.7 Respondents consent to the issuance of the Final Order recited herein and to the payment of the penalty cited in Paragraph 3.6.

3.8 Payment under this CAFO shall be made by cashier's check or certified check, payable to the order of "U.S. Treasury" and shall be 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

Respondents shall note on the check the title and docket number of this case.

3.9 Respondents shall submit a photocopy of the check described above to:

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

Mr. Daniel Duncan  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900  
Mail Code OCE-084  
Seattle, Washington 98101

3.10 Should Respondents fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondents may be subject to a civil action to collect the assessed penalty under TSCA. In any such action, the validity, amount, and appropriateness of the penalty is not subject to review.

3.11 Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), should Respondents fail 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 thirty (30) days of the effective date of the Final Order contained herein.

3.12 This CAFO shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state, and local law.

3.13 Respondents represent that they are duly authorized to execute this CAFO and that the party signing this CAFO on their behalf is duly authorized to bind Respondents to the

terms of this CAFO.

3.14 The provisions of this CAFO shall bind Respondents and their agents, servants, employees, successors, and assigns.

3.15 Respondents explicitly waive its right to contest the allegations contained in this CAFO and to appeal the Final Order contained herein.

3.16 Respondents certify that, to the best of their knowledge and belief, the financial information submitted to Complainant fairly and accurately sets forth their financial circumstances, and those circumstances have not materially changed between the date the financial information was submitted to Complainant and the date Respondents sign this CAFO.

3.17 Compliance with all the terms and conditions of this CAFO shall result in full settlement and satisfaction of all claims for penalties alleged in the complaint.

STIPULATED AND AGREED:

FOR RESPONDENT CHILKOOT LUMBER COMPANY, INC.



Mr. L. Edward Lapeyri  
President  
Chilkoot Lumber Company, Inc.

Dated: 7-28-11

FOR RESPONDENT MR. L. EDWARD LAPEYRI



Mr. L. Edward Lapeyri

Dated: 7-28-11

FOR COMPLAINANT



Edward J. Kowalski, Director  
Office of Compliance and Enforcement  
U.S. Environmental Protection Agency Region 10

Dated: 7-29-11

#### IV. FINAL ORDER

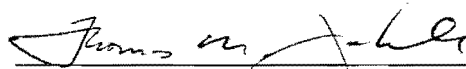
4.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondents are hereby ordered to comply with the foregoing terms of settlement contained in the Consent Agreement.

4.2. This CAFO constitutes a settlement by Complainant of all claims for civil penalties pursuant to the Toxic Substances Control Act for the particular violations alleged in Part III of the complaint. 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 Respondents' obligations to comply with all applicable provisions of the Act and regulations and permits issued thereunder.

4.3 Respondent shall pay a civil penalty of NINE THOUSAND FIVE HUNDRED DOLLARS (\$9,500) as provided in Paragraph 3.6 above.

4.4. This Final Order shall become effective upon filing.

SO ORDERED this 15<sup>th</sup> day of August, 2011.



Thomas M. Jahnke  
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 **In the Matter of: Chilkoot Lumber Company, Inc. and L. Edward Lapeyri, DOCKET NO.: TSCA-10-2010-0253** was filed with the Regional Hearing Clerk on August 1, 2011.

On August 1, 2011, the undersigned certifies that a true and correct copy of the document was delivered to:

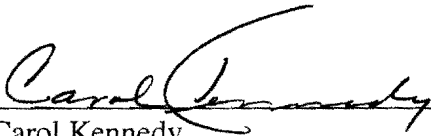
Alex Fidis, Esq.  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on August 1, 2011, to:

Fred W. Triem, Esq.  
Attorney at Law  
Box 129  
Petersburg, Alaska 99833-0129

Michael P. Nash, *Counsel Pro Tem*  
Attorney at Law  
214 Meyers Road  
Friday Harbor, Washington 98250

DATED this 1<sup>st</sup> day of August 2011.

  
\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10