



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG-2
2009 APR 23 PM 1:47
REGIONAL HEARING
CLERK

APR 22 2009

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

William F. Connors, Esq.
Senior Vice President of Compliance
Clean Harbors Environmental Services, Inc..
42 Longwater Drive
P.O. Box 9149
Norwell, MA 02061-9149

Re: Clean Harbors Environmental Services, Inc., Docket No. TSCA-02-2009-9208

Dear Mr. Connors:

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer (RJO) of the United States Environmental Protection Agency.

Please note that payment is due within forty-five (45) days of the date on which the RJO signed the enclosed Consent Agreement and Final Order. Please arrange for payment of this penalty according to the schedule and instructions given in the Order.

Sincerely yours,

Stuart N. Keith
Assistant Regional Counsel
Waste & Toxic Substances Branch
Office of Regional Counsel

Enclosures

cc: Karen Maples
Regional Hearing Clerk

Hon. William B. Moran
Administrative Law Judge

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2009 APR 23 PM 1:47
REGIONAL HEARING
CLERK

-----X
In the Matter of :
Clean Harbors Environmental Services, Inc., : CONSENT AGREEMENT
Respondent. : AND
 : FINAL ORDER
 : Docket No.
Proceeding under Section 16(a) of : TSCA-02-2009-9208
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 Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a Complaint and Notice of Opportunity for Hearing to Respondent, Clean Harbors Environmental Services, Inc. ("Respondent"), on October 6, 2008. The Complaint charged Respondent with one violation of the regulations promulgated pursuant to Section 6(e) of the TSCA, 15 U.S.C. § 2605(e), set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs"), and Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

FINDINGS OF FACT

1. Respondent is Clean Harbors Environmental Services, Inc.
2. Respondent owns, operates, and/or controls the facilities in and around 42 Longwater Drive, Norwell, Massachusetts (hereinafter "Respondent's Massachusetts facility"), and 3 Sutton Place, Edison, New Jersey (hereinafter "Respondent's Edison facility"). Respondent has indicated to EPA that it is affiliated with the facility located at 1910 Russell Street, Baltimore, Maryland (hereinafter "Respondent's Baltimore facility").
3. On or about August 19, 2007, Respondent had waste material from a National Railroad Passenger Corporation site (located near 9th Avenue and 31st Street) in

New York, New York, analyzed by Test America of Edison, New Jersey. In a report dated August 29, 2007, Test America reported to Respondent's Edison facility that the waste was contaminated with PCBs over 50 parts per million ("ppm").

4. On or about September 14, 2007, representatives of Respondent's Massachusetts facility accepted 13,925 kilograms of waste described in paragraph 3, above, for transport. Respondent then transported this material to Respondent's Baltimore facility under Bill of Lading No. 179520.

5. The waste, contaminated with PCBs over 50 ppm as described in paragraph 3, above, was a "PCB" and a "PCB waste" as those terms are defined at 40 C.F.R. § 761.3.

6. Respondent accepted the PCB waste described in paragraphs 3 through 5, above, without EPA Manifest Form 8700-22 signed by the generator in violation of 40 C.F.R. § 761.208(b)(1).

7. On February 23, 2009, the parties conducted an informal settlement conference.

CONCLUSIONS OF LAW

1. Respondent, as a transporter of PCBs and PCB waste, which are the subject of the above-referenced Complaint, is subject to the regulations and requirements pertaining to PCBs and PCB waste 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. Acceptance of PCBs and PCB waste for transport without an EPA Manifest Form 8700-22 signed by the generator is a violation of 40 C.F.R. § 761.208(b)(1), a regulation promulgated pursuant to Section 6(e) of TSCA, and therefore is a violation of Section 15(1)(C) of TSCA, 15 U.S.C. § 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 Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.18 (64 Federal Register 40138, 40182-83 [July 23, 1999]) (hereinafter "Consolidated Rules"), 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 the jurisdictional allegations of the Complaint, and (b) neither admits nor denies the specific factual allegations contained in the Complaint.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Twenty Four Thousand Three Hundred Seventy Five Dollars (\$24,375)**, payable to the "Treasurer of the United States of America". The check 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 check 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 of this matter

Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Chester Norman, Chemist
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-105
Edison, New Jersey 08837

and

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

Payment must be received at the above address on or before 45 calendar days after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date").

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 \$15.00 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.

c. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. §162 (f).

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims alleged in the Complaint in this matter. Nothing herein shall be read to preclude EPA or the United States, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. 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. Nothing herein resolves any claims by the Complainant against any other person.

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 explicitly waives its right to request or to seek any Hearing on the Complaint or any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or the accompanying Final Order.

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 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 effect 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: William F. O'Connor

Clean Harbors Environmental Services, Inc

NAME: William F. O'Connor

(PLEASE PRINT)

TITLE: Senior Vice President

DATE: April 15, 2009

COMPLAINANT:

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

DATE: April 17, 2009

In the Matter of Clean Harbors Environmental Services, Inc.

Docket Number TSCA-02-2009-9208

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement, entered into by the parties in full settlement of EPA's Complaint bearing Docket No. TSCA-02-2009-9208, In the Matter of Clean Harbors Environmental Services, Inc., is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: April 21, 2009

Helen Ferrera

Helen Ferrera
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007

In the Matter of Clean Harbors Environmental Services, Inc., Docket No. RCRA-02-2009-9208

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing CONSENT AGREEMENT AND FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk.
U.S. EPA- Region II
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Pouch Mail :

Judge William B. Moran
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave, NW
Mail Code 1900L
Washington, DC 20460-2001

Copy by Certified Mail Return Receipt Requested:

William F. Connors, Esq.
Senior Vice President of Compliance
Clean Harbors Environmental Services, Inc..
42 Longwater Drive
P.O. Box 9149
Norwell, MA 02061-9149

Dated: APR 23 2009
New York, New York

Sheldene N. Bay