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TSCA-10-2007-0101

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Chugach Electric Association, Inc.;

Respondent.

Docket No. TSCA-10-2007-0101

CONSENT AGREEMENT

1. This administrative proceeding is simultaneously being commenced and concluded by issuance of this Consent Agreement along with the accompanying Final Order. The authority for this procedure is set forth at 40 C.F.R. § 22.13(b). This Consent Agreement contains terms for the settlement of claims between the United States Environmental Protection Agency ("EPA") and Chugach Electric Association, Inc. ("Respondent"). The pursuit of these claims by EPA is authorized by Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

2. For purpose of this proceeding, Respondent admits the jurisdictional allegations contained herein. While neither admitting nor denying the specific factual allegation set forth in Paragraph 3 below, Respondent waives the right to contest those allegations. Respondent also waives the right to appeal the accompanying Final Order.

3. Respondent owns and operates a facility located at 5601 Electron Drive in Anchorage, Alaska. On March 14, 2005, Respondent shipped PCB-contaminated oil and debris for disposal at facility in Kent, Washington. The liquid PCBs and PCB Items arrived at the disposal facility on April 19, 2005. This shipment included 196 pounds of PCB Items that

1 had been removed from service, and designated for disposal, beginning on March 1, 2004, and
2 6 gallons of liquid PCBs that had been removed from service, and designated for disposal, on
3 March 19, 2004. The failure to dispose of this PCB waste within one year of the removal of
4 the liquid PCBs and PCB Items from service, and the designation of this PCB waste for
5 disposal, is a violation of 40 C.F.R. §761.65(a)(1). On February 15, 2006, Respondent sent
6 another shipment of PCB-contaminated debris for disposal at the facility in Kent, Washington.
7 These PCB Items were received at the disposal facility on March 21, 2006. This shipment
8 included 86 pounds of PCB Items that had been removed from service, and designated for
9 disposal, beginning on March 15, 2005. The failure to dispose of this PCB waste within one
10 year of the removal of the PCB Items from service, and the designation of this PCB waste for
11 disposal, is another violation of 40 C.F.R. § 761.65(a)(1). The actions of Respondent which
12 resulted in the failures to comply with the above-cited regulations are unlawful according to
13 Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

14 4. Respondent consents to the assessment and payment of a civil penalty in the
15 amount of one thousand nine hundred dollars (\$1,900). This penalty amount has been arrived
16 at through a calculation that is consistent with the factors prescribed by Section 16(a)(2)(B) of
17 TSCA, 15 U.S.C. § 2615(a)(2)(B), and the penalty policy of EPA.

18 5. The payment of this penalty shall be made by Respondent within thirty (30)
19 days of the filing of the Final Order. This payment shall be by wire transfer directed to:
20 Federal Reserve Bank of New York, ABA=021030004, Account=68010727, SWIFT
21 address=FRNYUS33, 33 Liberty Street, New York, New York 10045. The "Field Tag 4200"
22 of the wire transfer message should read "D68010727 Environmental Protection Agency."
23 Along with payment, Respondent shall notify the Federal Reserve Bank of New York of the
24 information contained in the caption of this case, including the case title and docket number,
25 together with a description of the obligation being satisfied by Respondent. At the time of
26 payment, Respondent shall also provide written notice of such payment to Carol Kennedy,
27 Regional Hearing Clerk at: United States Environmental Protection Agency, 1200 Sixth
28 Avenue, ORC-158, Seattle, Washington 98101.

1 6. Should Respondent fail to pay the penalty assessed herein in full by its due
2 date, the entire unpaid balance of penalty and accrued interest shall become immediately due
3 and owing. Should such a failure to pay occur, Respondent may be subject to a civil action to
4 collect the assessed penalty under TSCA. In any such collection action, the validity, amount,
5 and appropriateness of the penalty is not subject to review.

6 7. Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), should
7 Respondent fail to pay any portion of the penalty assessed herein in full by its due date,
8 Respondent shall be responsible for payment of interest on any unpaid portion of the assessed
9 penalty shall at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C.
10 § 3717(a)(1) from the effective date of the accompanying Final Order, provided, however, that
11 no interest shall be payable on any portion of the assessed penalty that is paid within 30 days
12 of the effective date of the Final Order.

13 8. This Consent Agreement is binding upon Respondent, including all officers,
14 directors, servants, employees, agents, successors, and assigns of Respondent.

15 9. Each party shall bear its own costs in bringing or defending this action.

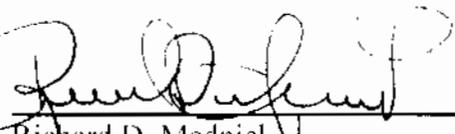
16 10. EPA and Respondent agree to the accompanying Final Order as presented to
17 the Regional Judicial Officer.

18
19 Date: 5-8-07

Date: 5-1-07

20 United States Environmental
21 Protection Agency

Chugach Electric Association, Inc.

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23 
24 Richard D. Mednick
25 Associate Regional Counsel

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28 Gregory H. Arthur, P.E.
Manager, Environmental Engineering &
Hazardous Material

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

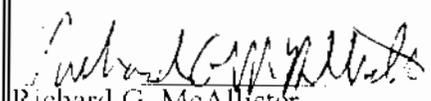
In the Matter of:)
Chugach Electric Association, Inc.:)
Respondent.)
_____)

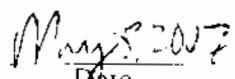
Docket No. TSCA-10-2007-0101

FINAL ORDER

It is hereby ordered that Chugach Electric Association, Inc. ("Respondent") comply with all terms of the Consent Agreement executed by the United States Environmental Protection Agency ("EPA") and Respondent in this matter. This compliance obligation is effective upon the date of filing of the Consent Agreement along with this Final Order.

This Final Order resolves only that cause of action that has been alleged by EPA in the Consent Agreement. This Final Order does not waive, extinguish, or otherwise affect the obligation of Respondent to comply with all applicable provisions of the Toxic Substances Control Act, and the regulations promulgated thereunder.


Richard G. McAllister
Regional Judicial Officer
EPA Region 10


Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Chugach Electric Association, Inc., DOCKET NO.: TSCA-10-2007-0101** as filed with the Regional Hearing Clerk on May 09, 2007.

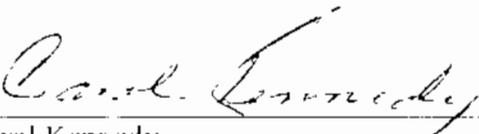
On May 09, 2007 the undersigned certifies that a true and correct copy of the document was delivered to:

Richard Mednick, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Seattle, Washington 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 May 09, 2007 to:

Heller Ehrman
Heller Ehrman White & McAuliffe LLP
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7098
Attention of: Svend A. Brandt-Erichsen

DATED this 09th day of May 2007.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10