

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

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HEARING CLERK

In the Matter of:)
)
John Rice, LLC) Docket No. TSCA-4-2012-2646
)
Respondent.)
_____)

ORDER TO WITHDRAW EXHIBITS AND
ORDER TO SHOW CAUSE

On January 10, 2014, Complainant in the above-captioned matter filed with the Regional Hearing Clerk, a *Response to Order to Submit a Second Supplement to the Record* ("Response"). Unless otherwise protected, all documents filed with the Regional Hearing Clerk pursuant to Part 22 of the Consolidated Rules of Practice are treated as public documents made available upon request. 40 C.F.R. § 22.9(a). In reviewing the information submitted, it appears that Attachments 1 and/or 2 to the Response may contain personally identifiable information ("PII") pertaining to third parties not involved in this administrative enforcement matter.

Exhibit F to Complainant's Motion for Default, "Declaration of Andrea Price-Lippitt, addresses the penalty portion of this matter. In particular, Ms. Price-Lippitt, referring to the Section 1018 *Disclosure Rule Enforcement Response Policy and Penalty Policy* (December 2007) ("ERPP"), indicates at Declaration paragraph 5, "The "extent" level I chose was "significant" because the case file does not include any information on the ages of the residents." However, the leases submitted indicate information that is inconsistent with that statement or appear discrepant, as follows:

- 215-B Samford Avenue – two individual occupants 38 years of age; a third occupant 18 years of age (see Lease Paragraph 7);
- 104 14th Street – 1 occupant, consisting of one adult and no children (see Lease Paragraph 5);
- 4006 US Hwy 29 N – two occupants, ages omitted, but same names as the individuals who executed the leases;
- 1827 1st Ave – only page one of the lease was submitted


IT IS ORDERED:

1. Counsel for Complainant is to take the following steps:
 - a. **Immediately** withdraw from the record Attachments 1 and 2 to the Response, and conduct a thorough review to determine what information contained in those attachments is PII, such that it can be used to distinguish, trace or identify an individual's identity who is not a party to this matter;
 - b. On or before **August 4, 2014**, any and all portions of the aforementioned attachments determined to contain PII of individuals not parties to this action are to be redacted. Redacted and non-

redacted versions of the documents, are to be refiled and re-served, by analogy, in accordance with the procedures covering Confidential Business Information set forth at Section 22.5(d) of Consolidated Rules of Practice, 40 C.F.R. § 22.5(d). The redacted documents will be included in the public record. The non-redacted documents will be retained as part of the case file but not disclosed to the public.

2. Counsel for Complainant, on or **before August 4, 2014**, is to show cause:
 - a. Why Ms. Price-Lippitt used the ERPP extent level "significant" in calculating the penalty in light of the occupant age information contained in leases for 215-B Samford Avenue and 104 14th Street; and
 - b. Why there is no presumption that the occupants listed in the lease for 4006 US Highway 29 N. were adults over age 18, since they entered into contracts (the lease) with Respondent.
2. Counsel for Complainant, on or before August 4, 2014, is to confirm that there is only one page on file for the lease at 1827 1st Avenue and whether the presumption on the extent level for this lease is "significant" due to lack of any other details on the ages of the occupants for this property.

Date: July 3, 2014



Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Order to Withdraw Exhibits and Order to Show Cause, in the Matter of John Rice, LLC, Docket No. TSCA-4-2012-2646, on the parties listed below in the manner indicated:

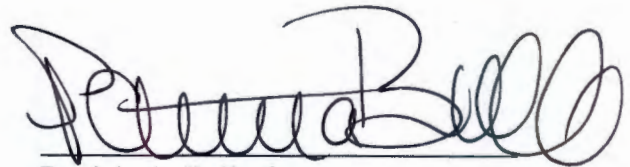
Via Electronic and Certified Mail –
Return Receipt Requested:

John W. Rice
John Rice, LLC
930 Avenue A
Opelika, Alabama 36801

Intra-Office Mail:

Michiko Kono, Esq.
Office of Environmental Accountability
U.S. Environmental Protection Agency
Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Date: 7-8-14



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 4
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Atlanta, GA 30303
404/562-9511