



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 26 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Tenpas, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004-2541

Re: DuraFiber Technologies (DFT), Inc.
Consent Agreement and Final Order
Docket No. TSCA-04-2016-2903(b)

Dear Mr. Tenpas:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CAFO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Alabama Power, on notice of their potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions or concerns, please contact Kris Lippert, of my staff, at (404) 562-8605.

Sincerely,

A handwritten signature in blue ink, appearing to read "William E. Truman".

William E. Truman
Acting Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
DuraFiber Technologies (DFT), Inc.)
)
)
Respondent.)
_____)

Docket No. TSCA-04-2016-2903(b)

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL
2016 MAY 26 AM 7:26
HEARING CLERK

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 Restoration Division (RCRD), United States Environmental Protection Agency, Region 4 (EPA). Respondent is DuraFiber Technologies (DFT), Inc.
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 EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has delegated this authority to the Director of RCRD by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRD 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 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 (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of 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 \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. 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 EPA in this proceeding:

Kris Lippert
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
(404) 562-8605

III. Specific Allegations

6. Respondent owned a facility at 338 Pea Ridge Road, New Hill, North Carolina 27562 (the facility), in 2015. Respondent is a “person” as defined in 40 C.F.R. § 761.3.
7. On or about October 15, 2015, a site visit at the facility was conducted by the North Carolina Department of Environmental Quality (NCDEQ).
8. At the time of the site visit, thirteen (13) Westinghouse Inerteen PCB Transformers were at the facility; of these, two were in use. “PCB Transformer” is defined in 40 C.F.R. § 761.3 as any transformer that contains 500 ppm (parts per million) PCB or greater.
9. “PCB Article” is defined in 40 C.F.R. § 761.3 as any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs.
10. “PCB Item” is defined in 40 C.F.R. § 761.3 as any PCB Article, PCB Article Container, PCB Container, PCB Equipment or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
11. Pursuant to 40 C.F.R. §§ 761.30(a)(1)(ix) and (xii), a visual inspection of each PCB Transformer in use must occur at least once every 3 months, and records of inspections must be maintained at least 3 years after disposing of the transformer. At the time of the site visit, Respondent had not prepared a record of inspection for PCB Transformers for the third quarter of 2015. Therefore, Respondent violated 40 C.F.R. §§ 761.30(a)(1)(ix) and (xii).
12. Pursuant to 40 C.F.R. § 761.65(b), PCBs and PCB Items designated for disposal must be stored in an area with an adequate roof, walls and non-porous floor with curbing. At the time of the site visit, PCB Items were not stored in areas with an adequate roof, walls and non-porous floor with curbing. Therefore, Respondent violated 40 C.F.R. § 761.65(b).

13. Pursuant to 40 C.F.R. § 761.180(a), a written annual document log and annual records must be developed, maintained and made available for inspection, and must be prepared by July 1 for the previous calendar. The annual document log for the previous year was completed in November, 2015. Therefore, Respondent violated 40 C.F.R. § 761.180(a).

IV. Consent Agreement

14. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
15. 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.
16. Respondent consents to the assessment of the civil penalty set forth in this CAFO and agrees to pay the civil penalty as set forth in 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.
18. This CAFO constitutes a settlement by 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, 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 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 THIRTY-NINE THOUSAND DOLLARS (\$39,000), which shall be paid within 30 days from the effective date of this CAFO.
21. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

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

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

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(314) 425-1818

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

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York using the following information:

ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York NY 10045
Beneficiary: US Environmental Protection Agency

The wire transfer instructions shall reference the Respondent's name and address, the case name and the docket number of this CAFO.

22. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer and the wire transfer instructions) 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;

Kris Lippert
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

and

Saundi Wilson
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

23. 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.

24. Pursuant to 31 U.S.C. § 3717, 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.

25. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

26. This CAFO shall be binding upon Respondent, its successors and assigns.

27. 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

28. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

[The remainder of this page is intentionally left blank.]

AGREED AND CONSENTED TO:

Docket No.: TSCA-04-2016-2903(b)

Respondent: DuraFiber Technologies (DFT), Inc.

By: [Signature] (Signature) Date: 4/6/16

Name: FRANK A. PAPA (Typed or Printed)

Title: CEO (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: [Signature] Date: 5/16/2016

G. Alan Farmer, Director
Resource Conservation and Restoration Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 24th day of May, 2016.

By: [Signature]
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), for DuraFiber Technologies (DFT), Inc., Docket Number: TSCA-04-2016-2903(b), on 5-26-16, and on 5-26-16 served the parties listed below in the manner indicated:

Michi Kono (Via EPA Internal Mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

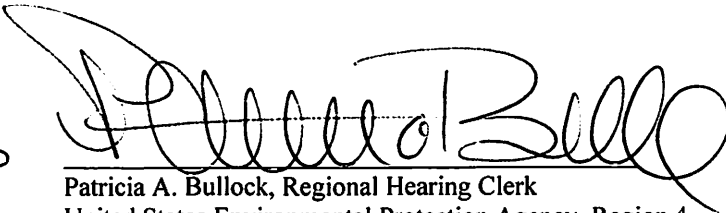
Kris Lippert (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Ronald Tenpas, Esq. (Via Certified Mail – Return Receipt Requested)
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004-2541

Date:

5-26-16



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511