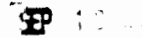




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Erin Sims-Taylor
EnergySolutions
1560 Bear Creek Road
Oak Ridge, Tennessee 37831

SUBJ: Docket No. TSCA-04-2011-2900(b)
EnergySolutions

Dear Ms. Sims-Taylor:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties pursuant to Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Pursuant to Section 37 of the CAFO, the assessed penalty of \$2,560 is due within 30 days after the effective date of the CAFO. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case. Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency, Cincinnati Accounting Operations address identified in the CAFO.

Should you have any questions about this matter or your compliance status in the future, please feel free to contact me at (404) 562-8976 or Raj Aiyar at (404) 562-8993.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank S. Ney".

Frank S. Ney, Acting Chief
RCRA and OPA Enforcement and Compliance
Branch
RCRA Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
EnergySolutions)
1560 Bear Creek Road)
Oak Ridge, Tennessee 37831)
)
Respondent)
_____)

Docket No. TSCA-04-2011-2900(b)

RECEIVED
EPA REGION IV
2011 SEP 13 PM 2:27
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 Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is EnergySolutions.
2. 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

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605. 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 \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. 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.

4. 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 by the EPA Delegation 12-2-A, dated May 11, 1994.
5. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-8993

III. EPA's Findings of Fact and Specific Allegations

6. Respondent, with a Facility located in Oak Ridge, Tennessee, is a user of Polychlorinated Biphenyl (PCB) Items operating in the State of Tennessee and is a "person" as defined in 40 C.F.R. § 761.3.
7. On or about February 24, 2010, an inspection was conducted by a representative of the EPA and the Tennessee Department of Environment and Conservation (TDEC) at the Respondent's facility located at 1560 Bear Creek Road, Oak Ridge, Tennessee to determine compliance with regulations promulgated under Section 6(e) of TSCA pertaining to PCBs.
8. Pursuant to 40 C.F.R. § 761.40(a)(10), a PCB storage area used to store PCBs and PCB items must be marked with the PCB M_L label. The Best Way Annex is a large storage building that was identified as an approved PCB storage area. No PCB M_L marking was found in the PCB storage area during the inspection. Therefore, the EPA alleges that Respondent violated 40 C.F.R. § 761.40(a)(10).
9. Pursuant to 40 C.F.R. § 761.180(b), the facility is required to maintain all relevant records including annual records on the disposition of PCBs and PCB Items and maintain annual document logs for all PCBs and PCB Items that were handled as PCB waste at the facility. Energy Solutions failed to maintain complete and accurate records. Therefore, the EPA alleges that Respondent violated 40 C.F.R. § 761.180(b).

IV. Consent Agreement

10. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
11. 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.

12. Pursuant to 15 U.S.C. § 2615(a), TSCA Section 16(a), and in consideration of the nature of the alleged violation, the EPA has determined that an appropriate civil penalty to settle this action is in the amount of TWO THOUSAND FIVE HUNDRED AND SIXTY DOLLARS (\$2,560).
13. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in Section V of this CAFO.
14. Respondent certifies that to the best of its knowledge, as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA and the PCB regulations found in 40 C.F.R. Part 761.
15. This CAFO constitutes a settlement by the 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, the 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 the EPA, and it is Respondent's responsibility to comply with said laws and regulations.
16. 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

17. Respondent is assessed a civil penalty of TWO THOUSAND FIVE HUNDRED AND SIXTY DOLLARS (\$2,560), which shall be paid within 30 days from the effective date of this CAFO.
18. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 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 mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

Contact: Natalie Pearson (314) 418-4087

19. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, 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

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

20. 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.
21. Pursuant to 31 U.S.C. § 3717, the 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.
22. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

23. This CAFO shall be binding upon the Respondent, its successors and assigns.
24. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and to legally bind that party to this CAFO.

VI. Effective Date

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

AGREED AND CONSENTED TO:

Respondent: EnergySolutions
Docket No.: TSCA-04-2011-2900(b)

By: Brian C. Wood (Signature) Date: 8-29-11

Name: BRIAN C. WOOD (Typed or Printed)

Title: SENIOR VP - PROCESSING (Typed or Printed)

Complainant: ~~U.S.~~ Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 9/8/11

G. Alan Farmer
Director
RCRA Division
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 13 day of Sept, ~~2010~~ ²⁰¹¹.

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of EnergySolutions, Docket Number: TSCA-04-2011-2900(b), to the addressees listed below.

via Certified Mail, Return Receipt Requested

EnergySolutions
1560 Bear Creek Road
Oak Ridge, Tennessee 31601

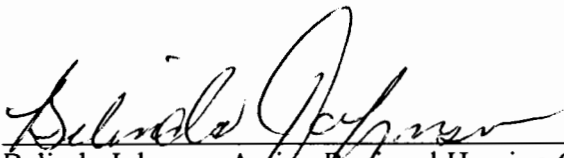
via EPA's internal mail

Robert Caplan
Senior Attorney
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth St. SW
Atlanta, Georgia 30303

Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth St. SW
Atlanta, Georgia 30303

Date:

9/13/2011


Belinda Johnson, Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, Georgia 30303