UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105-3901

DEC 18 1991

In Reply: A-4-2
Refer to: TSCA-09-91-0002

Margaret A. Pietrasz, Esquire
JAFFEE, TRUTANICH, SCATENA & BLUM
250 Montgomery Street
San Francisco, California 94104

Dear Ms. Pietrasz:

Enclosed is your copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with David Jones of the Office of Regional Counsel.

Petroleum Recycling Corporation's completion of all remedial actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions regarding the rules, regulations and statutes governing your operations which are implemented by the Agency or which govern the proceedings terminated by the enclosed document, please contact Molly McGowan at 415-744-1118.

Sincerely,

David P. Howekamp
Director
Air and Toxics Division

Enclosure

cc: Nennet V. Alvarez
California Environmental Protection Agency Region 4

Printed on Recycled Paper

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In re:	Docket No. TSCA-09-91-0002
PETROLEUM RECYCLING CORPORATION, Respondent.	CONSENT AGREEMENT AND FINAL ORDER

I

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxics Substances Control Act, as amended (T.S.C.A.), [15 U.S.C. § 2615(a)]. The action was instituted by a Complaint and Notice of Opportunity for Hearing (Complaint) issued on December 5, 1990. The Complaint, which is incorporated herein by this reference, charged Petroleum Recycling Corporation (Respondent) with the violation of 40 C.F.R. §§ 761.20 (e), 761.60(a) and (d), 761.65 and Section 15(1)(c) of T.S.C.A. [15 U.S.C. § 2614(1)(c)] at the facility operated by Respondent located at Signal Hill, California, Fontana, California and San Diego, California (Facility). Complainant is the United States Environmental Protection Agency (EPA), Region 9.

II

For the purpose of this proceeding, without trial or other actual litigation of the issue(s) or any adjudication of the facts set forth in the Complaint and in order to avoid disruption of orderly business activity and the expense of protracted and costly litigation, Respondent and Complainant admit and agree that the Regional Administrator, EPA Region 9, has jurisdiction of the subject matter of the action set out in the Complaint and over the parties thereto, pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 22.04(a). Respondent agrees not to contest the Complainant's jurisdiction to issue and enforce this Consent Agreement and Final Order.

III

Respondent neither admits nor denies the specific factual allegations set out in the Complaint. Respondent hereby waives any rights which it may have to an administrative or judicial hearing on any issue(s) of law or fact set forth in the Complaint including but not limited to its right under Section 16(a)(2)(A) of T.S.C.A. to request a hearing. Respondent consents to the terms of this Consent Agreement and Final Order. The terms of this Consent Agreement and Final Order constitute a full settlement of the civil administrative action filed under the docket number above. If Respondent fulfills the terms and conditions of this Consent Agreement and Final Order, Respondent shall be deemed to be in full satisfaction of the violation(s) charged in the Complaint and no other claims, injunctions or any other civil action will be brought or initiated by Complainant against Respondent based on, as a result of or in connection with the violations charged in the

Complaint.

IV

By signing this Consent Agreement and Final Order, Respondent agrees to pay as the full amount of the civil penalty the sum of THIRTY-FIVE THOUSAND DOLLARS in lieu of the civil penalty proposed in the Complaint of SIXTY-FIVE THOUSAND DOLLARS. The penalty adjustment set forth herein above is based upon (1) Respondent's good faith efforts to come into compliance with T.S.C.A. and the implementing regulations and (2) the cooperation with the EPA during settlement negotiations in the form of representations by Respondent's representatives. In addition to payment of the civil penalty as set forth herein above, Respondent has agreed to perform certain tasks some of which are more fully described in a letter signed by Respondent and attached hereto and marked as Exhibit "A". The penalty payment shall be sent to:

EPA - Region 9
Regional Hearing Clerk
P. O. Box 360863M
Pittsburgh, PA 15251.

In the event Respondent issues any public statement regarding the supplement enforcement project described in Exhibit "A" and performed under this Article IV, Respondent shall include a statement that the commitment to perform such project by Respondent was in exchange for credit against penalties in settlement of an enforcement action brought by the EPA.

V

Respondent in executing this Consent Agreement and Final Order agrees that Respondent will use Respondent's best efforts to come into compliance with all applicable requirements of T.S.C.A. and the implementing regulations particularly the following:

1. Respondent shall implement the standards of 40 C.F.R. § 761.20(e) which requires the maintenance of certain records pertaining to PCBs including the specific items of information as enumerated in 40 C.F.R. § 266.43(b)(6)(i) and (ii). The Facility's records will be modified to include the information for which Respondent was cited in the Complaint only if such information is available.

2. Within thirty days after the execution of this Consent Agreement and Final Order by Respondent, Respondent shall certify to Complainant that Respondent has instituted policies which will preclude a repetition of the practices for which Respondent was cited in Count II of the Complaint. Along with the certification Respondent will provide Complainant with a copy of the policy documentation, documentation showing a tracking system for each load of waste oil received, incoming waste analysis, the generator, the storage location and the ultimate disposal of that waste oil load.

3. Respondent shall provide Complainant within forty-five days after the execution of this Consent Agreement and Final Order by Respondent with a narrative description of Respondent's efforts to comply with the regulations cited in Count III of the Complaint. The narrative will include but not be limited to Respondent's maintenance of an up dated SPCC Plan as described in Section 761.65(c)(7)(ii), record format to be used to maintain the records required in Section 761.65(c)(8).

4. Respondent shall use its best efforts to adopt Quality Assurance Requirements similar to those set forth in Exhibit "B" attached hereto and by this reference incorporated herein. To the extent the provisions of Exhibit "B" conflict or duplicate any other provisions in this Consent Agreement and Final Order, the provisions of Exhibit "B" shall prevail. Respondent shall submit to Complainant within ninety days after the execution of this Consent Agreement and Final Order by Respondent a showing that Respondent has complied with the provisions of this Item 4. Respondent shall provide a full description of the Quality Assurance Requirements adopted by Respondent.

Respondent shall certify to Complainant no later than ninety days after execution of this Agreement by Respondent, 1) that the Facility is being operated in full compliance with T.S.C.A. and the implementing regulations and 2) the status of the task set forth in Items 1 - 3 above.

In the event Respondent is unable to complete any of the tasks to be completed prior to certification and within the time set out herein, Complainant will extend the time for performance upon Respondent's written request, provided Respondent can demonstrate to Complainant's reasonable satisfaction that Respondent has used its best efforts to meet the time limitation set forth herein.

Respondent shall submit to Complainant within ten consecutive days after the end of each calendar quarter for a period of four consecutive calendar quarters on and after the date of execution of this Agreement by Respondent, a complete report which shall indicate the status of the projects set out as Items 1 - 4 and Exhibits "A" in this Article V above. In the event that Respondent has completed all of the tasks and submitted all of the documentation, the report will not be required.

All submissions under this Consent Agreement and Final Order shall be addressed as follows:

Greg Czajkowski, Chief
Toxics Section
Pesticides and Toxics Branch
Air and Toxics Division
United States Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, California 94105

Respondent hereby agrees that its failure to fulfill the obligations as set forth in this Article V shall constitute an additional violation of T.S.C.A. which may subject Respondent to a penalty in the same amount as proposed in the Complaint.

VI

This Agreement does not relieve Respondent from compliance with monitoring and enforcement actions for TSCA violations not addressed by this Agreement, including but not limited to all non-civil

enforcement actions, or from enforcement actions under laws administered by state or local environmental authorities, except where TSCA would preempt such laws and the specific violations are governed by this Agreement. Complainant and Respondent agree that this Consent Agreement and Final Order is being entered into by the parties to this administrative proceeding in full settlement of all liabilities which might have attached as a result of the allegations set forth in the Complaint.

VII

In executing this Consent Agreement and Final Order, Respondent agrees to pay the civil penalty in accordance with the conditions and time frames specified in the Final Order set forth below. In accordance with the Debt Collection Act of 1982 and U.S. Treasury (TFRM 6-8000), payment must be received within ~~thirty~~ days after the execution of this Consent Agreement and Final Order to avoid additional charges. If not received within such time, interest will accrue from the date of execution at the current interest rate published by the U.S. Treasury. A late penalty charge of $20.00 per thousand dollars of the proposed penalty will be imposed with an additional charge of $10.00 for each subsequent 30-day period. A 6% per annum penalty will be applied on any principal amount not paid within ninety days of the due date. In addition, if payment is not made within the required time frame, Respondent shall be liable for the full amount of the civil penalty of SIXTY-FIVE THOUSAND DOLLARS as specified in the Final Order below.

VIII

The provisions of this Consent Agreement and Final Order shall be binding upon Respondent, its officers, directors, agents,

successors or assigns. Respondent's obligations under this Consent Agreement shall end when Respondent has performed all of the terms of the Consent Agreement in accordance with the Final Order. Complainant and Respondent consent to the entry of this Consent Agreement and Final Order without further notice.

Nov. 11, 1991
Date

Respondent, Petroleum Recycling Corp.
BY: R.D. McAuley, President

12/6/91
Date

Director,
Air and Toxics Division, EPA
Region 9

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FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. T.S.C.A.-09-90-0002) be entered and Respondent shall pay within thirty days after receipt of a fully executed copy of this Consent Agreement and Final Order by cashier's check or certified check, made payable to the Treasurer, United States of America, and addressed as follows:

EPA - Region 9
Regional Hearing Clerk
P. O. Box 360863M
Pittsburgh, PA 15251,

a civil penalty in the amount of THIRTY-FIVE THOUSAND DOLLARS. In the event Complainant determines that Respondent has failed to complete all of the tasks identified in Article V above within the specified time frames the balance of any unpaid portion of the full amount of the proposed penalty of SIXTY-FIVE THOUSAND DOLLARS shall be due within fifteen consecutive days after Respondent's receipt of an order of nonremittance. Such balance shall be paid by cashier's or certified check made payable to the Treasurer, United States of America and sent to the Pittsburgh address specified above.
A copy of the check shall be sent to the EPA Region 9 address specified in Article V above within thirty days after the execution of this Consent Agreement and Final Order. This order shall become effective immediately.

12-17-91
Date

Steven W. Anderson
STEVEN W. ANDERSON
Regional Judicial Officer
EPA
Region 9

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JAFFE, TRUTANICH, SCATENA & BLUM
A PROFESSIONAL LAW CORPORATION

FRESNO
2344 TULARE STREET, SUITE 400
POST OFFICE BOX 1752
FRESNO, CA 93717-1752
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250 MONTGOMERY STREET
SUITE 900
SAN FRANCISCO, CA 94104
TELEPHONE: (415) 397-9006
FAX: (415) 397-1339

LOS ANGELES
615 WEST 9TH STREET
SAN PEDRO, CA 90731
TELEPHONE: (213) 548-0410
FAX: (213) 832-3394

PLEASE REPLY TO: SAN FRANCISCO

October 3, 1991

Mr. David M. Jones
Assistant Regional Counsel
Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

RE: Petroleum Recycling Corporation
Docket No. TSCA-09-91-0002

Dear Mr. Jones:

Enclosed is a revised schedule of Environmentally Beneficial Expenditures (EBE's), in the format of an exhibit which can be attached to the final consent agreement in the matter referenced above.

Please let me know as soon as possible if this revised schedule is not acceptable.

Also, it is my understanding that this matter is being settled for a penalty amount of $45,000, with $20,000 offset by the EBE's. If my understanding of our settlement agreement is incorrect, please let me know.

If you have any questions regarding the above or the enclosed schedule, please do not hesitate to contact me.

Very truly yours,

JAFFE, TRUTANICH, SCATENA & BLUM

MARGARET A. PIETRASZ

MAP/klc
156-374

cc: John Markley
Kathleen Tripple

EXHIBIT "A"

EXHIBIT A

Environmentally Beneficial Expenditures

I. Oil Recycling

PRC will arrange to accept free-of-charge, used oil from homeowners residing in the vicinity of its Signal Hill, Fontana and Patterson facilities. Homeowner used oil will be accepted during certain hours of certain days. These days and times will be posted at each facility.

PRC will also make available, free-of-charge to homeowners, oil disposal kits which are completely recyclable.

PRC will begin accepting homeowner used oil at its three facilities within six months of execution of the consent judgement.

The costs to set-up and run this program include expenses for manpower to accept and process the oil, recordkeeping, advertising fees, facility remodeling, and manufacture of the oil disposal kits. PRC will document and track these costs, and submit a summary of these costs to EPA at the end of the first, second and third years of operation.

The estimated cost to set-up and run this program for three years at one facility is $10,000. The estimated cost of this EBE for three facilities for three years is $30,000

II Industry Outreach

PRC will distribute to other known oil recycling facilities within California, the Quality Assurance/Quality Control program established for PRC under this Consent Judgement. PRC will draft a cover letter to the QA/QC program mailout, explaining the nature and purpose of the program. This will assist other petroleum recycling corporations in instituting appropriate QA\QC programs for their facilities. PRC will accomplish this within six months of the signing of the consent order.

The costs associated with this EBE include the time to draft an appropriate cover letter, the cost of copying documents, the cost to purchase, address and stuff envelopes, and the cost to mail the documents. PRC will document each of these costs and mail a summary to EPA within six months of the signing of the consent order.

PRC estimates that the total cost of this EBE will be approximately $5,000

EXHIBIT "B"

EXHIBIT

PETROLEUM RECYCLING CORPORATION (PRC)

QUALITY ASSURANCE REQUIREMENTS

Introduction

To assure analytical results of known quality and to minimize the occurrence of false negative and positive results, the following quality assurance plan will be instituted and followed for the analysis of all waste oil samples for polychlorinated biphenyls (PCBs) and other analytes, as appropriate.

Methodology

The analytical procedure used will be one of the following established EPA methods for the determination of PCBs in waste oils or other similar matrices:

1. "The determination of Polychlorinated Biphenyls in Transformer Fluid and Waste Oils," Bellar, T. and Lichtenberg, J., U.S. EPA, EPA-600/4-81-045, 1981

2. "Test Methods for Evaluating Hazardous Waste, 3rd Edition, Method 8080, Organochlorine Pesticides and PCBs," U.S. EPA, SW-846, 1986

3. "The Determination of Polychlorinated Biphenyls in Oil, Soil and Surface Samples," U.S. EPA, EPA-330/9-89-004, 1989

The use of other methodology will require validation by PRC and approval by the U.S. EPA, Region IX office.

The nominal detection limit for the procedure employed will be at least 1 mg/kg (ppm) for total PCBs. Any necessary deviations from the established method are to be fully documented in the raw data for each data set.

Reference Standards

All reference standards (Aroclor mixtures and individual compounds) used in PCB analyses shall be obtained from U.S. EPA certified sources.

All neat standards will be fully documented with respect to source, date received, purity and other essential information. A four point calibration plot (including zero concentration) will be established for each detected Aroclor mixture at least

weekly, particularly if this calibration technique is not employed for each individual sample set. If a single point calibration technique is used for actual sample analysis, the sample response will be adjusted to within ± 10% of the reference standard response for quantitation purposes. Reference standard preparation, documentation and storage are described by and follow a written standard operating procedure (SOP).

Quality Control (QC)

Sufficient quality control analyses must be performed for each set of samples such that all results can be adequately evaluated and are fully defensible.

For sample sets of fewer than ten samples, i.e. groups of samples of substantially similar matrix, one duplicate spike, one duplicate sample and one reagent blank are also to be analyzed and evaluated. For sets of larger than ten samples, one duplicate spike, one duplicate sample and one reagent blank are analyzed for each subset of ten. The spiked and replicate samples can be chosen at random for initial quantitative analysis of the samples, or selected later based on the results of initial screening or quantitative analysis. In every case the quality control determinations are to be made within 48 hours by the same analyst using the same procedures and instrumentation as used for the sample set. Overspikes of samples containing >1000 mg/kg (1%) PCBs may not be feasible or meaningful.

The Relative Percent Difference (RPD) for any duplicate set of quality control measurements should be <20% and recoveries of spiked samples should be between 80 and 120%, except as noted below. Samples that contain PCBs and are overspiked with the same Aroclor should be spiked at between three and ten times the level of Aroclor present in the sample. These overspikes of positive samples with like Aroclor mixtures should have RPDs <30% and recoveries between 70 and 130%. Samples not containing PCBs should be spiked at approximately 10 times the detection limit. Reagent blanks should demonstrate no interferences that would effect the detection limit for, or otherwise interfere with, the sample analyses. When quality control values fall outside the prescribed limits or reagent blanks show significant interferences, the associated sample set will be reanalyzed with a new set of quality control samples. Analyses of the sample set shall continue until the prescribed QC limits are achieved.

Samples within ± 20% of the appropriate regulatory (or other cutoff) limit, e.g. 50 mg/kg, should be analyzed at least in triplicate so as to obtain a standard deviation whereby the upper 95% confidence value can be obtained for the PCB concentration in the sample.

A certified performance evaluation (PE) sample of PCB contaminated oil (available from EPA or the National Institute of Standards and Technology) will be analyzed in duplicate at

least weekly with the average of the results falling within the prescribed acceptable range. If results are outside the acceptable range, then no more samples should be analyzed until the source of the problem is identified and corrected. Data from samples analyzed since the last acceptable PE results should also be evaluated for validity and reanalyzed, if necessary. This PE analyses may be carried out more frequently, if desired.

All performance evaluation data will be summarized and maintained as a report on file on a weekly basis. A copy of the appropriate weekly PE report will also be kept with each set of original sample data.

As appropriate, confirmation of identity of PCBs and PCB mixtures will be carried out using procedures spelled out in the referenced methodology or by an unequivocal technique such as mass spectrometry.

Standard Operating Procedures (SOPs)

SOPs are to be developed and followed on a day-to-day basis for the following operations common to all PCB analyses:

* Receipt, storage and distribution of samples
* Methodology (referenced, if appropriate)
* Source, receipt, storage and preparation of reference standards
* Inspection, maintenance, calibration and operation of each analytical instrument
* Data generation, recording, review, storage and retrieval
* Reporting
* Glassware, solvent and reagent specifications and use
* Quality control practices
* Training of technical staff

Data Generation, and Review and Retention

All generated data will be reviewed by peer and/or senior level personnel as prescribed in a written SOP. Such reviews will be documented in the raw data file.

Raw data will be generated for each sample analysis to the degree necessary to allow full reconstructability of procedures used, personnel involved, timing of events and notable observations. Either designated accountable worksheets or bound

notebooks may be used to supplement chromatographic or other instrumental data outputs. All raw data entries including hard copy printouts are to be initialed and dated by the analyst on the day the data are generated. All manual data entries will be recorded in ink and necessary corrections will be made by a single line-out with the initials (and date) of the person making the correction.

All original raw data, and verified copies (or originals) of correspondence, records and reports (including those for quality control and PE samples) will be properly identified and securely archived in easily retrievable fashion for a period of at least five years or other period, if longer, as required by regulation or statute.

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order Docket No. TSCA-09-91-0002 was filed with the Regional Hearing Clerk, Environmental Protection Agency, Region 9, and that copies, addressed as follows, were served by mailing Certified Mail, Return Receipt Requested, postage prepaid, in a United States Mail Box, at the City and County of San Francisco, California, on the 18th day of December, 1991:

Certified Mail #
P 678 972 968

Margaret A. Pietrasz, Esquire
JAFFEE, TRUTANICH, SCATENA & BLUM
250 Montgomery Street
San Francisco, California 94104

Certified Mail #
P 678 972 967

The Honorable Frank W. Vanderheyden
Administrative Law Judge
Office of Administrative Law Judges
United States Environmental Protection Agency
401 M Street, S. W.
Washington, D. C. 20460

Dated at City and County of San Francisco, California, this 18th day of December, 1991.

Tom Screven

Tom Screven, Secretary
Pesticides and Toxics Branch
Air and Toxics Division
EPA, Region 9