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FILED
MAR 12 1990
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
HEARING CLERK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In re:	)	Docket No. TSCA-09-89-0015
	)	
ALUMINUM COMPANY OF AMERICA,	)	CONSENT AGREEMENT AND FINAL ORDER
Respondent.	)	

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 (TSCA), [15 U.S.C. 2615(a)]. The action was instituted by a Complaint and Notice of Opportunity for Hearing (Complaint) issued on August 15, 1989. The Complaint charged Aluminum Company of America (Respondent), with the violation of 40 C.F.R. 761.30(e), 761.60(a) and (d), 761.65, 761.180(a) and Section 15(1) of TSCA [15 U.S.C. 2614(1)(c)] at the facilities owned by Respondent located at 5151 Alcoa Avenue, Vernon, California (Facility). Complainant is the

United States Environmental Protection Agency (EPA), Region 9.

II

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).

III

Respondent neither admits nor denies the specific factual allegations made in the Complaint. Respondent hereby waives any rights which it may have to a hearing on any issues set out in the Complaint. Complainant waives whatever rights it may have to compel Respondent to answer or otherwise defend the Complaint. Respondent consents to the issuance of this Consent Agreement and Final Order without adjudication.

IV

By signing this Consent Agreement and Final Order, Respondent agrees to pay a civil penalty in the amount of FOUR THOUSAND EIGHT HUNDRED FIFTY DOLLARS in lieu of NINE THOUSAND SEVEN HUNDRED DOLLARS in the Complaint. The penalty adjustment set out herein above is based upon: 1) Respondent's good faith efforts to come into compliance with the TSCA regulations and 2) The Respondent's cooperation with the Environmental Protection Agency during settlement negotiations in the form of representations by Respondent's representatives which were followed by submission of Draft Clean-Up Agreements for PCB contamination in the #10 Press Building.

V

In executing this Consent Agreement and Final Order, Respondent agrees to undertake the following tasks and mitigative measures:

1. Respondent shall implement the requirements of 40 C.F.R. 761.180(a) with respect to the maintenance of records. Respondent shall submit to Complainant within 30 days after execution of this Consent Agreement by Respondent the PCB annual document format to be used in complying with this Agreement and shall submit a revised 1987 PCB annual document in accordance with 40 C.F.R. 761.180(a).

2. Within 45 days after the execution of this Consent Agreement and Final Order by Respondent, Respondent shall provide Complainant with documentation in the form of disposal manifests confirming that the Peeler Press and the Straightening Press have been disposed in accordance with 40 C.F.R. 761.60.

3. Within 45 days after the execution of this Consent Agreement and Final Order by Respondent, Respondent shall provide Complainant with copies of the site assessments conducted at the Peeler Press area and the Straightening Press area. Copies of site assessments shall include identification of sample locations, sample analysis results, description of any cleanup conducted and disposal manifests for any cleanup materials. The documentation shall confirm that standards required by

40 C.F.R 761.120 have been met.

4. Respondent shall provide Complainant within 60 days after the execution of this Consent Agreement and Final Order by Respondent with documentation in the form of disposal manifests indicating that the 1000 Ton Forge Press has been disposed of in accordance with 40 C.F.R. 761.60.

5. Respondent shall provide Complainant within 90 days after the execution of this Consent Agreement and Final Order by Respondent with a narrative description of Respondent's PCB and lead cleanup effort at the 1000 Ton Forge Press area supported by documentation such as: Identification of sample locations, preliminary sample analysis results, cleanup procedures, cleanup materials used, final verification sampling results, and manifests indicating proper disposal of cleanup debris. The documentation shall indicate that standards required by 40 C.F.R. 761.120 have been met.

6. Within 30 days of execution of this Consent Agreement and Final Order, Respondent shall begin a program of PCB cleanup, as outlined in Attachment #1 of this Consent Agreement and Final Order, in the #10 Press Building (Extrusion Press Building). Respondent shall submit to Complainant within ten consecutive days after the end of each calendar quarter for a period of six 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 cleanup project. In the event that Respondent has completed all of the tasks and submitted all of the documentation required by this Article V.6,, the report set out herein will not be required.

7. Within 30 days after the execution of this Consent Agreement and Final Order, Respondent shall submit payment in the amount of FOUR THOUSAND EIGHT HUNDRED FIFTY DOLLARS. The payment shall be sent to:

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

VI

In the event Respondent is unable to complete the tasks set out in Article V above, within the prescribed time, Complainant will extend the agreed performance period upon Respondent's written request, provided that Respondent can demonstrate to Complainant's reasonable satisfaction that Respondent has used its best efforts to comply with the specified requirements.

All submissions under this Consent Agreement and Final Order (other than the payment of civil penalty) shall be addressed as follows:

Greg Czajkowski, Chief
Toxics Section, A-4-2
Air and Toxics Division
U.S. Environmental Protection Agency
Region 9
215 Fremont Street
San Francisco, CA 94105

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VII

This Agreement does not relieve Respondent from compliance with monitoring and from 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 pre-empt such laws and the specific violations are governed by the Agreement.

VIII

In executing this Consent Agreement and Final Order, Respondent agrees to pay the civil penalty in accordance with the conditions and timeframes 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 with 30 days after the execution of this Consent Agreement and Final Order to avoid additional charges. If not received, 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 90 days of the due date. In addition, if payment is not made within the required timeframe, Respondent shall be liable for the full amount of the civil penalty of NINE THOUSAND SEVEN HUNDRED DOLLARS as specified in the Final Order below.

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IX

In the event that Respondent fails to perform any task set forth in this Consent Agreement and Final Order within the specified time, unless such time has been extended pursuant to Article IX, Respondent shall be deemed to be in default of this Consent Agreement and Final Order.

In the event that Respondent is deemed to be in default of this Consent Agreement and Final Order, Respondent agrees to pay Complainant the balance of the unpaid portion of the full amount of the civil penalty of NINE THOUSAND SEVEN HUNDRED DOLLARS within fifteen (15) days after Respondent's receipt of an Order of Non-Remittance.

X

Complainant and Respondent consent to the entry of this Agreement and Final Order without further notice.

February 12, 1990
Date

Respondent Vincent R. Scorsone
Group Vice Pres.--Aerospace & Industrial Produc
(print name and title)

3/6/90
Date

David P. Howekamp
Director
Air and Toxics Division

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. TSCA-09-89-0015) be entered and Respondent shall pay by cashier's check or certified check made payable to the Treasurer, United States of America, within thirty (30) days after the execution of this Consent Agreement and Final Order, and addressed as follows:

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

a civil penalty in the amount of FOUR THOUSAND EIGHT HUNDRED FIFTY DOLLARS ($4,850.00). A copy of the check shall be sent to the EPA Region 9 address specified in Article VI above within thirty (30) days after the execution of this Consent Agreement and Final Order. In the event Complainant determines that Respondent has failed to complete all of the tasks identified in Article V above within the specified timeframes, the balance of the unpaid portion of the full amount of the civil penalty of Nine Thousand Seven Hundred Dollars shall be due within fifteen (15) days after Respondent's receipt of an order of non-remittance. Such balance shall be paid by cashier's check or certified check, made payable to the Treasurer, United States of America, and sent to the Pittsburgh address specified above.

This order shall become effective immediately.

March 6, 1990
Date

Steven W. Anderson
Steven W. Anderson
Regional Judicial Officer
US EPA
Region 9

ATTACHMENT #1
CONSENT AGREEMENT AND FINAL ORDER
DOCKET NUMBER TSCA-09-89-0015

1. Conduct site assessment of all accessible areas in the #10 Press Building (Extrusion Press Building) to determine PCB contamination by analyzing standard wipe samples and core samples. The sampling plan shall follow guidelines described in "Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup," EPA document number EPA560/5-86/017.

2. The above referenced characterization will include soil sampling for detection of PCB contamination under the Building. Aluminum Company of America to provide a diagram of the #10 Press Building and indicate proposed locations of soil sampling sites. The number and locations of soil samples to be taken to be agreed upon by Aluminum Company of America and EPA and the results of wipe, core and soil sampling to be submitted to EPA. Should a probability of potential groundwater contamination by PCBs exist, ALCOA should then be prepared to take appropriate remedial action to eliminate any risk to groundwater posed by the PCBs.

3. ALCOA will select and indicate to EPA at least four areas of concrete, two vertical and two horizontal, representing highly contaminated and moderately contaminated areas, and shall clean them using a high pressure blaster and an appropriate cleaning solution followed by clean water rinse. The highly contaminated area will be chosen to represent the highest 10% of measured contamination while the moderately contaminated area will have PCB contamination of approximately 100 ug/100 sq. cm.

4. Verification sampling will be conducted in the four areas after one week and again after one month to determine efficiency of above referenced cleaning methods. If determined to be successful, this cleaning technique will be used on all accessible contaminated areas.

5. Accessible areas that show PCB contamination greater than 100 ug/100 sq. cm. must be recleaned until decontamination levels fall within standards outlined by the PCB Spill Cleanup Policy 40 C.F.R. 761.120. Accessible restricted access, low contact, indoor, nonimpervious surfaces may be cleaned to 100 ug/100 sq. cm. if then encapsulated.

6. In areas where cleaning has failed to meet the required standards, ALCOA, where practical, will consider concrete removal in those areas in order to reach PCB Spill Cleanup Policy decontamination levels.

7. Within 240 days after the execution of this Consent Agreement

and Final Order, Respondent shall provide Complainant with with a narrative description of cleanup effort at #10 Press Building and shall include documentation such as: Cleanup procedures, cleanup materials used, identification of verification sample locations, final verification sampling results, and manifests indicating proper disposal of cleanup debris.

8. Cleanup of all currently accessible areas in #10 Press Building shall be accomplished within 180 days from the effective date of this Consent Agreement and Final Order. In the event that Respondent is unable to complete the cleanup in time frame specified, Respondent shall make application in writing to EPA at the address specified in Article VI above for an extension of time. The application for an extension of time shall be submitted at least seven (7) days in advance for the date for performance of items 7 and 8 of this attachment.

9. At such time that the Facility is no longer in operation, or if the Facility is sold or transferred, or if any long term shutdown of the Facility occurs, full cleanup of PCB contamination in the #10 Press Building shall occur, with PCB Spill Clean Up Policy Standards 40 C.F.R. 761.120 standards being met.

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order Docket No. TSCA-09-89-0015 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 8th day of March, 1990:

Mr. Al Piecka
General Regional Manager
Aluminum Company of America
P. O. Box 58407
5151 Alcoa Avenue
Los Angeles, California 90058

Certified Mail #
P 442-087-191

Henry B. Frazier, III
Chief Administrative Law Judge
Office of Administrative Law Judges
U. S. Environmental Protection Agency
401 M Street, Room 3706 (A-110)
Washington, D. C. 20460

Certified Mail #
P 442-087-190

Dated at City and County of San Francisco, California, this 8th day of March, 1990.

Thomas S. Serene for
Greg Pennington, Branch Secretary
Pesticides and Toxics Branch
Air and Toxics Division
EPA, Region 9