

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TX

IN THE MATTER OF:

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Dlubak Glass Company

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Consent Agreement and Final Order

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USEPA Docket No. RCRA-06-2025-0903

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RESPONDENT

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CONSENT AGREEMENT AND FINAL ORDER**I. PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, Dlubak Glass Company ("Respondent" or "Dlubak") and concerns the facility at 1018 W. 14th Street, Okmulgee, Oklahoma 74447 (the "Dlubak Facility").
2. Notice of this action has been provided to the State of Oklahoma, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits only the jurisdictional allegations herein. Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO and does not admit any liability arising out of the transactions or occurrences alleged in this matter. Assuming Complainant's factual allegations and conclusions of law are true and correct, this CAFO states a claim upon which relief may be granted.

4. Respondent explicitly waives any right to contest the allegations or to appeal the proposed relief contained in this CAFO and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.
5. Respondent and Complainant, by the execution and filing of this CAFO, have agreed to resolve only those violations and claims arising out of the course of conduct alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.
7. By their signatures to this CAFO, the Parties agree to the use of electronic signatures for this matter. The Parties further agree to electronic service of this CAFO, pursuant to 40 C.F.R. § 22.6, by email to the following addresses: EPA, sharma.ravi@epa.gov, and for Respondent, grovner@foley.com.

II. JURISDICTION

8. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
9. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent: 1) agrees not to contest the authority or jurisdiction of EPA to issue

or enforce this CAFO and 2) agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Respondent is a glass recycling company authorized to do business in the State of Oklahoma.
11. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and Oklahoma Statutes Title 27A-2-7-103.15.
12. Respondent owns or operates the Dlubak Facility.
13. The Facility is a "facility" within the meaning of 40 C.F.R. § 260.10 and Oklahoma Statutes 27A-2-7-103.19.
14. The Dlubak Facility provides glass recycling services.
15. The Dlubak Facility has been under investigation by the Oklahoma Department of Environmental Quality (ODEQ) since 2018 for allegedly storing thousands of tons of speculatively accumulated glass from processed cathode ray tubes (CRT); the matter was referred to EPA in 2022.
16. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, the EPA conducted a RCRA onsite inspection and record review on March 22, 2023, to determine Respondent's compliance with RCRA and its implementing regulations at the Dlubak Facility (the "Inspection").
17. During the Inspection, EPA determined that Respondent, had previously stored at least approximately 7,000 tons of crushed CRT glass in four separate piles at the Facility. This crushed CRT glass had a Toxicity Characteristic Leaching Procedure (TCLP) value for lead

above regulatory thresholds, pursuant to 40 C.F.R. § 261.24. ODEQ had performed their initial inspection in April 2018 and similarly observed approximately 7,000 tons of CRT glass onsite.

18. Pursuant to 40 C.F.R. § 260.10, a “Cathode Ray Tube or CRT” is a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A “used, intact CRT” means a CRT whose vacuum has not been released. A “used, broken CRT” means the CRT glass that has been removed from its housing or casing and whose vacuum has been released.
19. Pursuant to 40 C.F.R. § 260.10, a “CRT collector” is a person who receives used, intact CRTs for recycling, repair, resale, or donation.
20. Pursuant to 40 C.F.R. § 260.10, “CRT processing” means conducting all the following activities:
 - A. Receiving broken or intact CRTs; and
 - B. Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and
 - C. Sorting or otherwise managing glass removed from CRT monitors.
21. Pursuant to 40 C.F.R. §§ 261.4(a)(22)(i) (conditional exclusion for used, intact CRTs); 261.39(a) and (b) (conditional exclusion for used, broken CRTs); and 261.39(c) (conditional exclusion for glass from CRTs destined for recycling at a CRT glass manufacturer or lead smelter), used CRTs are not considered “solid waste” provided the CRT processing meets certain conditions enumerated in these regulations.
22. Pursuant to 40 C.F.R. § 261.4(a)(22):

1. Used, intact CRTs are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in 40 C.F.R. § 261.1(c)(8) by CRT collectors and glass processors;
 2. Used, intact CRTs are not solid wastes when exported for recycling, provided they meet the requirements of 40 C.F.R. § 261.40;
 3. Used, broken CRTs are not solid wastes provided they meet the requirements of 40 C.F.R. § 261.39;
 4. Glass removed from CRTs is not a solid waste provided it meets the requirements of 40 C.F.R. § 261.39(c).
23. Among the requirements of 40 C.F.R. § 261.39 is that used, broken CRTs and glass removed from CRTs cannot be accumulated speculatively.
24. Pursuant to 40 C.F.R. § 261.1(c)(8), a material is “accumulated speculatively” if it is accumulated before being recycled, but a material is not accumulated speculatively if the person accumulating it can show that:
1. The material is potentially recyclable and has a feasible means of being recycled; and
 2. During the calendar year (commencing January 1) – the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period.
25. The CRT glass noted in Paragraph 15 was "hazardous waste" as defined in 40 C.F.R. §§ 261.21, 261.24, 261.31, and 261.33.

26. From the investigation, EPA determined that Respondent speculatively accumulated the crushed CRT glass onsite at the Facility for a period of approximately five (5) years without transfer to a recycling or disposal facility.
27. Dlubak is registered as a non-generator of hazardous waste, EPA ID# OKR000013417.
28. Respondent is a "generator" of "hazardous waste" as those terms are defined in 40 C.F.R. § 260.10.
29. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in 40 C.F.R Part 262 and/or 270.
30. EPA submitted to Respondent on February 13, 2024, a Notice of Potential Violation and Opportunity to Confer. In an in-person meeting with Dlubak's legal counsel on April 9, 2024, EPA conferred with the Respondent regarding the violations alleged therein and provided an opportunity for Respondent to submit additional information and materials, which Respondent did on June 17, 2024, and thereafter.

IV. CLAIMS

Count 1. Failure to obtain a RCRA storage permit.

31. The allegations in Paragraph 1-30 are realleged and incorporated by reference.
32. Pursuant to 40 C.F.R. § 270.1(c), RCRA requires a permit for the "treatment," "storage," and "disposal" of any "hazardous waste" as identified or listed in 40 C.F.R. Part 261.

33. EPA's investigation determined that Dlubak failed to obtain a RCRA permit, despite the Facility storing approximately 7,000 tons of hazardous waste CRT glass for approximately five (5) years.
34. At all times relevant to this CAFO, Respondent failed to obtain the necessary RCRA hazardous waste storage permit, in violation of 40 C.F.R. § 270.1(c).

V. COMPLIANCE ORDER

35. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent has been hereby ordered to clean up the excess debris piles of glass (including CRT glass) that were located outside of holding facilities at the Dlubak Oklahoma Facility as depicted in the photographs attached as Appendices A-D. EPA hereby acknowledges that, as of the Effective Date, Respondent has submitted photographs of the same the locations shown in Appendices A-D that demonstrate Respondent's full compliance with this Paragraph. Respondent confirms that it has submitted the photographs subject to the confirmation requirements of Paragraph 36 below.
36. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECDSR)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Gabriel Salinas

Where possible, notice shall be sent electronically by email to Enforcement Officer Gabriel Salinas, respectively at salinas.gabriel@epa.gov or at 214-665-8483.

VI. TERMS OF SETTLEMENT

Penalty Provisions

37. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of **Two-Hundred and Twenty-Five Thousand Dollars (\$225,000)**.
38. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to the Treasurer United States.
39. The Respondent shall pay the Assessed Penalty and any interest, fees, and other charges using any method, or combination of appropriate methods, as provided on the EPA website: <http://www.epa.gov/financial/makepayment>.
40. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

The case name and docket number (In the Matter of Dlubak Glass Company, Docket No. RCRA-06-2025-0903 shall be clearly documented on or within the chosen method of payment to ensure proper credit.

41. Identify every payment with Respondent's name and the docket number of this Agreement.
42. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.loreana@epa.gov; and

Gabriel Salinas
Enforcement and Compliance Assurance Division
RCRA Enforcement Section
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDST)
Dallas, Texas 75270-2101
salinas.gabriel@epa.gov; and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

43. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. For any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date (i.e. sixty (60) days from the effective date of this CAFO), interest on the

civil penalty assessed in this CAFO will be assessed retroactively from the effective date of the CAFO and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

44. Moreover, the costs of the Agency's administrative handling of any past due debts will be charged and assessed monthly basis throughout any period in which such debt is past due as set forth in this Paragraph 44 and as provided in 40 C.F.R. § 13.11(b), as follows: (1) EPA will assess a \$15.00 administrative handling charge for administrative costs on the unpaid penalty for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period thereafter for as long as the penalty remains unpaid; (2) In addition, a penalty charge of up to six percent (6%) per year will be assessed on a pro rata monthly basis for any portion of the debt which remains past due more than ninety (90) days. 40 C.F.R. § 13.11(b); such penalty shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

VII. TAX REPORTING

45. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest.

46. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:
- A. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
 - B. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN; Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at chalifoux.jessica@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
 - C. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective

date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:

- i. Notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the effective date of this Order; and
- ii. Provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

VIII. GENERAL PROVISIONS

47. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

A. Termination and Satisfaction

48. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 35, unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO shall self-terminate solely on the basis of Respondent's certification.

49. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

B. Effective Date of Settlement

50. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

Dlubak Glass Company
RCRA-06-2025-0903

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

RESPONDENT: Dlubak Glass Company.

Date: _____
Signature

Name

Title

FOR THE COMPLAINANT: U.S. Environmental Protection Agency

Date: _____
Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Dlubak Glass Company

1018 W. 14th Street.
Okmulgee, OK 74447

Copy via Email to Complainant, EPA:

sharma.ravi@epa.gov
salinas.gabriel@epa.gov

Copy via Email to Respondent:

grovner@foley.com
dcabralas@foley.com

Regional Hearing Clerk
U.S. EPA, Region 6

APPENDIX A



APPENDIX B



APPENDIX C



APPENDIX D

