

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

2016 MAY -2 AM 9:58

IN THE MATTER OF:)
)
Mosaic Life Care,)
)
5325 Faraon Street)
St. Joseph, MO 64506)
)
RCRA I.D. No. MOR000512418)
)
Respondent)
)
Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery)
Act as amended, 42 U.S.C. § 6928(a) and (g))
_____)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2015-0012

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Mosaic Life Care (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order (CA/FO) serves as notice that EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925.

Parties

3. The Complainant is the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7, as duly delegated from the Administrator of EPA.

4. The Respondent is Mosaic Life Care, a non-profit corporation formed under the laws of Missouri.

Statutory and Regulatory Framework

5. The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. The State of Missouri has adopted by reference the federal regulations cited herein at pertinent parts in the Missouri Code of State Regulations (C.S.R.) in Title 10, Division 25. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. When the EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified

time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of any RCRA requirement, where such violation occurs in a state which is authorized to implement a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Missouri has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$37,500 per day are now authorized for violations of Subchapter III of RCRA that occurred after January 12, 2009.

Factual Background

7. Respondent is a Missouri corporation and is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Respondent, located at 5325 Faraon Street, St. Joseph, Buchanan County, Missouri, is a medical and surgical hospital. Respondent employs approximately 4,300 people and has a total of 352 beds. Respondent has been operating in St. Joseph since at least 1996 as Heartland Regional Medical Center, and under other names prior to 1996; however, most recently in late 2014, started operating as Mosaic Life Care.

9. Respondent notified as a large quantity generator (LQG) of hazardous waste on August 16, 2011. As part of its operations, Respondent generates hazardous waste and universal waste. Once a waste is classified a hazardous waste, it is assigned a waste code pursuant to the

regulations set forth in Paragraph 10. Hazardous wastes generated by Respondent, along with their waste codes, include: xylene still bottoms (F003), methicillin-resistant staphylococcus aureus (MRSA) waste (D002), waste xylene (D001, F003), waste aerosol inhalers (D001), and waste medication containing silver (D011), to name a few. Universal waste generated by Respondent includes waste fluorescent lamps and waste batteries.

10. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 10 C.S.R. 25-4.261, which incorporates by reference the regulations at 40 C.F.R. Part 261. The wastes listed in the fourth sentence of Paragraph 9 are “solid wastes” and “hazardous wastes” within the meaning of these regulations. The fluorescent lamps and waste batteries listed in the last sentence of Paragraph 9 are “universal wastes” pursuant to 40 C.F.R. Part 273.

11. Respondent has been assigned the facility identification number MOR 000512418.

12. On or about January 8, 9, and 10, 2014, EPA conducted a RCRA compliance evaluation inspection at Respondent’s facility (hereinafter “the January 2014 inspection”). Based on observations of Respondent’s hazardous waste generation rates and accumulation amounts, the inspector determined that Respondent was operating at that time as a large quantity generator of hazardous waste. EPA’s findings were documented in a RCRA Compliance Evaluation Inspection report.

13. At the time of the January 2014 inspection, Respondent’s hazardous waste notification on file with the EPA as of August 16, 2011, stated that the facility was a “large quantity generator,” i.e., that the facility generated greater than 1,000 kilograms of hazardous waste per month.

14. At the time of the January 2014 inspection, Respondent had generated and had in storage at the facility the hazardous wastes and universal wastes listed in Paragraph 9.

15. During the January 2014 inspection, the inspector observed several violations of RCRA, which are set forth below.

Violations

16. Complainant hereby states and alleges that Respondent has violated RCRA and federal and state regulations promulgated thereunder, as follows:

Count I

I. Failure to Perform Hazardous Waste Determinations

17. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 16 above, as if fully set forth herein.

18. Pursuant to 40 C.F.R. § 262.11, as incorporated by reference at 10 C.S.R. 25-5.262(1), a generator of solid waste, as defined in 40 C.F.R. § 261.2, is required to determine if the solid waste is a hazardous waste.

19. At the time of the January 2014 inspection, in the Clinical Labs, Respondent was storing MRSA (methicillin-resistant staphylococcus aureus) waste in a 10-gallon container, and storing waste xylene in two 5-gallon containers from which waste xylene still bottoms are generated from recycling activities. The facility representative stated that a hazardous waste determination had not been conducted on the MRSA and the waste xylene still bottoms. The wastes were subsequently determined to be hazardous waste.

20. At the time of the January 2014 inspection, in the Clinical Labs, the facility representative stated that gram stain waste (i.e., TB Methylene Blue, Gram Safarin, Gram's Decolorizer, and Gram's Crystal Violet), hematoxylin and eosin (H&E) stainer waste, other

miscellaneous waste (i.e. Iron Stain, Acid Alcohol Stain, Acid Fast Bacillus Stain, Bouin's Stain, Bone Marrow Stain, Acetic Acid Stain, etc.), and waste methanol are all generated by Respondent. The facility representative stated that a hazardous waste determination had not been conducted on any of the stain waste listed in this paragraph, nor on the waste methanol listed in this paragraph. The wastes were subsequently determined to be hazardous waste.

21. At the time of the January 2014 inspection, in the Radiology Department, the facility representative stated that Respondent generates two waste lead aprons per year. Respondent had not performed any hazard waste determinations on the waste lead aprons listed in this paragraph.

22. At the time of the January 2014 inspection, in the Biomedical Services Department, Respondent had generated five spent lead solder sponges in the previous three years and disposed of them with the general trash. Respondent had not performed any hazardous waste determinations on the spent lead solder sponges.

23. At the time of the January 2014 inspection, in the Cancer Center, Oncology Clinic, and Main Pharmacy, Respondent generated approximately 27 to 32 five-gallon containers of chemotherapy waste each month and about four spent chemotherapy hood filters each year. Respondent had not performed any hazardous waste determinations on these wastes.

24. At the time of the January 2014 inspection, in the Grounds Department, Respondent generated 20 to 25 used oil filters each year from service of the facility vehicles and miscellaneous equipment. The used oil filters were non-punctured, non-crushed, and non-dismantled when hot-drained, rendering them a solid waste. Respondent had not performed any hazardous waste determinations on the used oil filters.

25. Respondent's failure to characterize the wastes listed in Paragraphs 19 through 24 is a violation of 40 C.F.R. § 262.11, as incorporated by reference at 10 C.S.R. 25-5.262(1).

Count II

II. Operation of a Hazardous Waste Treatment and Storage Facility Without a RCRA Permit

26. Complainant hereby incorporates the allegations contained in paragraphs 7 through 16 above, as if fully set forth herein.

27. Section 3005 of RCRA, 42 U.S.C. § 6925, requires each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

Failure to Comply with Generator Requirements

28. Facilities classified as "large quantity generators" are allowed to accumulate hazardous waste without a permit for up to 90 days, pursuant to 40 C.F.R. § 262.34, provided they comply with various waste handling, training, and contingency plan requirements. If a generator fails to comply with these requirements, they are not allowed to accumulate hazardous waste at their facility for any length of time, and doing so constitutes operation of a hazardous waste storage facility without a permit. Respondent failed to comply with the following waste handling requirements:

Failure to identify the contents of satellite accumulation containers

29. The regulations at 40 C.F.R. § 262.34(c)(1)(ii), incorporated by 10 C.S.R. 25-5.262(1) and (2)(C)3, require that satellite accumulation containers be labeled with the words "Hazardous Waste" or with words that identify the contents of the containers and the beginning date of satellite accumulation.

30. At the time of the January 2014 inspection, Respondent had stored in a laboratory

one 5-gallon hazardous waste satellite accumulation container of waste xylene (waste codes D001 and F003) that was not labeled as waste, as required by 40 C.F.R. § 262.34(c)(1)(ii).

Failure to conduct weekly inspections of the hazardous waste container accumulation area

31. The regulations at 40 C.F.R. § 262.34(a)(1), referencing 40 C.F.R. § 265.174, and incorporated by 10 C.S.R. 25-5.262(C)2.C(1) and (4), require that hazardous waste container accumulation areas must be inspected on a weekly basis, looking for leaks and for deterioration caused by corrosion or other factors.

32. Prior to October 2013, dating back to August 16, 2011, Respondent failed to conduct weekly inspections of the hazardous waste accumulation area.

Failure to provide and document required employee training

33. The regulations at 40 C.F.R. § 262.34(a)(4), incorporated by reference at 10 C.S.R. 25-5.262(1), requires large quantity generators to comply with 40 C.F.R. § 265.16(e), stating in pertinent part that training records on current personnel must be kept until closure of the facility and training of former personnel must be kept for at least three years.

34. Examination of documentation provided at the time of the January 2014 inspection revealed that Respondent had failed to provide and/or document proper training to employees as follows:

a. For all of 2012, no training was provided to Roy Turner, Donny Despain, and Terry Ross, all hazardous waste handlers.

b. For all of 2011 and 2012, Respondent failed to provide hazardous waste management training to Michael Barnett and Marty Jones, both hazardous waste handlers.

35. Respondent's failure to comply with the conditions set forth in 40 C.F.R. § 262.34, which is alleged in Paragraphs 28 through 34, subjects Respondent to the requirement of having a permit or interim status, for its storage of hazardous waste.

36. Respondent does not have a RCRA Permit or RCRA Interim status to operate as a storage facility.

37. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 28 through 34 above, Respondent was not authorized to store hazardous waste at its facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit, in violation of Section 3005 of RCRA and the permitting requirements found at 10 C.S.R. 25-5.262.

COUNT III

III. Failure to Comply with Universal Waste Requirements

38. Missouri regulations, 10 C.S.R. 25-16.273, incorporate the federal rules governing the handling of universal waste found at 40 C.F.R. Part 273.

39. Section 3005 of RCRA, 42 U.S.C. § 6925, R.S.Mo. 260.370, and the regulations at 10 C.S.R. 25-16.273(1), incorporating by reference 40 C.F.R. §§ 273.34(e), 273.14(e), 273.15(c), and 273.13(d), require that each lamp or container in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," and must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste, and are managed in a way that prevents releases of any universal waste or component of a universal waste to the environment.

40. At the time of the January 2014 inspection, there were 57 universal waste lamps that were not in closed containers and were not properly labeled.

41. Respondent's improper storage of lamps is a violation of the regulations governing the handling of universal waste found at 40 C.F.R. Part 273.

III. CONSENT AGREEMENT

42. Respondent and EPA agree to the terms of this CA/FO and Respondent agrees to comply with the terms of the Final Order portion of this CA/FO. The terms of this CA/FO shall not be modified except by a subsequent written agreement between the parties.

43. Respondent admits the jurisdictional allegations of this CA/FO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CA/FO set forth below.

44. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CA/FO, but agrees to settle all claims alleged by Complainant under the terms set forth herein without further cost or delay.

45. Respondent waives any right to contest the allegations set forth above, and its right to appeal the proposed Final Order portion of the CA/FO.

46. Respondent and Complainant agree to conciliate the matters set forth in this CA/FO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

47. This CA/FO addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

48. Respondent certifies that by signing this CA/FO, to the best of Respondent's knowledge, Respondent is presently in compliance with all requirements of Subchapter III of RCRA (Hazardous Waste Management).

49. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CA/FO and to execute and legally bind Respondent to it.

50. Respondent agrees that, in settlement of the claims alleged in this CA/FO, Respondent shall pay a mitigated civil administrative penalty of \$14,720.00 as set forth in Paragraph 1 of the Final Order, and shall perform a Supplemental Environmental Project ("SEP") as set forth in this CA/FO. The projected cost of this SEP is \$44,161.

51. The penalty specified in the paragraph above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

52. The effect of settlement described in paragraph 47 above is conditioned upon the accuracy of the Respondent's representations to EPA, memorialized in paragraph 48 above.

53. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

54. This CA/FO shall be effective upon filing of the Final Order by the Regional Judicial Officer for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

55. This CA/FO shall remain in full force and effect until Complainant provides Respondent with written notice, in accordance with Paragraph 8 of the Final Order, that all requirements hereunder have been satisfied.

Supplemental Environmental Project (SEP)

56. In response to the violations of RCRA alleged in this CA/FO and in settlement of this matter, although not required by RCRA or any other federal, state, or local law, Respondent shall complete the SEP described in this CA/FO and in Exhibit 1, which the parties agree is intended to secure significant environmental or public health protection and improvement.

57. Respondent shall complete the following SEP:

The collection and disposal within its community of mercury thermometers and used batteries.

This SEP shall be performed in accordance with the requirements of this CA/FO and the SEP Work Plan that is attached to this document and incorporated by reference.

58. Within twelve (12) months of the effective date of this CA/FO, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall conform to the requirements of this CA/FO and shall contain the following information:

- a. A detailed description of the SEP as implemented, including itemized costs;
- b. A description of any problems encountered in implementation of the project and the solution thereto;
- c. A description of the specific environmental and/or public health benefits resulting from implementation of the SEP; and
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this CA/FO.

59. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all SEP costs. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such

drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

60. The SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

61. The SEP Completion Report shall be submitted on or before the due date specified in Paragraph 58 to:

Edwin G. Buckner, P.E.
Environmental Engineer
AWMD/WEMM
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

62. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEP shall include the following language:

This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Resource Conservation and Recovery Act. 42 U.S.C. § 6901 *et seq.*

63. Respondent hereby certifies that, as of the date of this CA/FO, Respondent is not required to perform or develop the SEP described in this CA/FO by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for the SEP.

64. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEPs.

65. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term “open federal financial assistance transaction” refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

66. Respondent agrees to the payment of stipulated penalties as follows:

- a. In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in this CA/FO, Respondent shall be liable for stipulated penalties according to the provisions set forth below.
 - (1) If the SEP is not completed satisfactorily and timely pursuant to the requirements set forth in this CA/FO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Thirty-three Thousand Dollars (\$33,000).
 - (2) If the SEP is satisfactorily completed, but the Respondent spends less than Eleven Thousand Forty Dollars (\$11,040) on the SEP, Respondent shall pay a stipulated penalty to the United States in the amount of Thirty-three Thousand Dollars (\$33,000). If the SEP is satisfactorily completed, and the Respondent spends from Eleven Thousand Forty Dollars (\$11,040) to Twenty-two Thousand Five Hundred Twenty-one (\$22,521) on the SEP, Respondent shall pay a stipulated penalty to the United States in

the amount of Twenty-two Thousand Dollars (\$22,000). If the SEP is satisfactorily completed, and the Respondent spends from Twenty-two Thousand Five Hundred Twenty-one Dollars (\$22,521) to Forty Thousand One Hundred Eighty-six Dollars (\$40,186) on the SEP, Respondent shall pay a stipulated penalty to the United States in the amount of Eleven Thousand Dollars (\$11,000). If the SEP is satisfactorily completed, and the Respondent spends at least Forty Thousand One Hundred Eighty-seven Dollars (\$40,187) on the SEP, Respondent shall not be liable for payment of a stipulated penalty.

- b. If Respondent fails to timely and completely submit the SEP Completion Report required by this CA/FO, Respondent shall be liable for and shall pay a stipulated penalty in the amount of Two Hundred Dollars (\$200.00) for each day after the due date until a complete report is submitted.
- c. EPA shall determine whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP.
- d. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the SEP or other resolution under this CA/FO.
- e. Respondent shall pay any stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions set forth in Section "A" of the Final Order portion of this CA/FO.

67. Late Payment Provisions: 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 a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorney's fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt

will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

Reservation of Rights

68. Notwithstanding any other provision of this CA/FO, EPA reserves the right to enforce the terms of the Final Order portion of this CA/FO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. §6928, and to seek penalties against Respondent in an amount not to exceed Thirty-seven Thousand Five Hundred Dollars (\$37,500) per day per violation pursuant to Section 3008(c) and/or Section 3008(g) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

69. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.

70. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

71. Notwithstanding any other provisions of the CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid

waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

72. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

73. Nothing contained in this CA/FO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and according to the terms of this CA/FO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CA/FO, Respondent will pay a civil penalty of \$14,720.00.

2. Payment of the penalty shall be made either by cashier or certified check or by wire transfer. If made by cashier or certified check, the check shall be made payable to "Treasurer of the United States" and remitted to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Wire transfers shall be directed to the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
“D 68010727 Environmental Protection Agency.”

The Respondent shall reference the Docket Number on the check or transfer. A copy of the check or transfer shall also be mailed to EPA’s representative identified in Paragraph 6 of the Final Order below, and to:

Yolanda Holden
EPA Region 7 CNSL
11201 Renner Boulevard
Lenexa, Kansas 66219

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CA/FO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

4. Respondent shall complete the Supplemental Environmental Project in accordance with the provisions set forth in the Consent Agreement and shall be liable for any stipulated penalty to complete such project as specified in the Consent Agreement.

B. Compliance Actions

5. Respondent shall perform the activities listed below within the time frames set out for each:

- a. Within 30 days after the effective date of this Final Order, Respondent shall submit hazardous waste training documentation for all affected employees for the years 2014 and 2015.
- b. Within 30 days after the effective date of this Final Order and quarterly thereafter for a period of one year, Respondent shall provide a report (five reports in total) containing photographic documentation of proper and

compliant hazardous waste and universal waste container management for all such containers in the facility for one selected day during each quarter.

C. Submittals

6. All documents required to be submitted to EPA pursuant to this Final Order shall be sent to:

Edwin G. Buckner, PE
Environmental Engineer
AWMD/WEMM
U.S. Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

D. Parties Bound

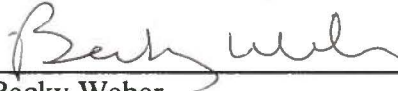
7. This Final Order portion of this CA/FO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CA/FO.

E. Termination

8. The provisions of this CA/FO shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.


COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

4/29/14
Date



Becky Weber
Director, Air and Waste Management Division
U.S. Environmental Protection Agency
Region 7

4/25/2014
Date



Yolanda Holden
Assistant Counsel
Chemical Management Branch
Office of Regional Counsel

**FOR RESPONDENT
MOSAIC LIFE CARE:**

04-20-2016

Date

By:


Signature

Christopher Bennett
Printed Name VA Support Services

IT IS SO ORDERED.

This Final Order shall become effective upon filing.

4-2-2016
Date

Karina Borroneo
Karina Borroneo
Regional Judicial Officer

MOSAIC LIFE CARE

Supplemental Environmental Project (SEP) Work Plan

Background

Mosaic Life Care and the U.S. Environmental Protection Agency have agreed to attach this SEP Work Plan to the Consent Agreement and Final Order (CAFO) regarding USEPA Region 7's January 8th-10th, 2014 inspections at the Mosaic Life Care Hospital Facility.

Summary of SEP/Expected Environmental Benefit

After our audit, it was brought to our attention that proper disposal of hazardous materials is an ongoing pursuit to monitor consistently. Approximately 100lbs of hazardous waste is produced per household each year in the United States. There are an estimated 175,000 households in our immediate service area and surrounding rural counties we serve. This does not include our clinics in the Kansas City, Missouri area. Mosaic Life Care's plan is to offer an exchange quarterly or even more than that if demand exists to dispose of mercury thermometers and to replace them with environmentally friendly thermometers for free to the residents. Mosaic Life Care will also accommodate a battery exchange. Currently, many battery exchanges are not offered in the rural region at this time. Discarding a battery in the normal trash can be very harmful towards the environment. Studies have demonstrated that the average household improperly discards eight batteries per year in the public trash system. Based on the population we serve (conservatively) the impact of this statistic is 1.4 million batteries per year. Easy access to disposal and working with communities will make an impact in the improper discard of thermometers and batteries in the normal trash.

There are obvious harmful effects to human health and environment by improperly discarding these batteries. For humans, both lead and cadmium can be taken only by ingestion or inhalation. Mercury, another harmful metal, can be absorbed through the skin, although this metal's use in batteries has declined greatly due to laws and regulations that have been put into effect. (E.g. US Battery Act, 1996).

These harmful substances permeate into the soil, groundwater and surface water through landfills and also release toxins into the air when they are burnt in municipal waste combustors. Moreover, cadmium is easily taken up by plant roots and accumulates in fruits, vegetables and grass. The impure water and plants in turn are consumed by animals and human beings, who then fall prey to a host of ill-effects. Studies indicate that nausea, excessive salivation, abdominal pain, liver and kidney damage, skin irritation, headaches, asthma, nervousness, decreased IQ in children and sometimes even cancer can result from exposure to such metals for a sufficient period of time.

In addition, potassium, if it leaks, can cause severe chemical burns thereby affecting the eyes and skin. Landfills also generate methane gas leading to the 'greenhouse effect' and global climatic changes.

Projected Cost

Mosaic Life Care projects that the total cost of this SEP will be forty four thousand, one hundred and sixty one dollars (\$44,161.00). The SEP will consist of two primary activities: (1) waste removal, disposal and access and (2) education and outreach. The following are the costs to remove and dispose of Mercury Thermometers and Lithium Ion Batteries:

1. Disposal of Mercury Thermometers:

P.C. 5863-10

\$14/lb. with a \$195 minimum

7% Energy surcharge

2. Disposal of Lithium Ion Batteries:

P.C. 113-20

\$6.04/lb. with a \$175 minimum

7% Energy surcharge

Detailed Work Plan

This SEP will include two primary activities: waste removal, transportation and disposal, and education and outreach.

Waste Removal (approximately 85% of total SEP costs). Mosaic will engage a third party vendor who provides safe discard bins and then collects and processes the waste. The vendor will be fully insured. The vendor will directly invoice Mosaic Life Care for the services and weight collected and we will pay the vendor. We will retain these invoices as evidence of what we have spent on the SEP. This cost estimate will be \$37,536.85.

Outreach/Education (approximately 15% of total SEP costs). In addition to providing the waste management of mercury and batteries, Mosaic Life Care will provide internal training materials for proper waste management and the harms of improper disposal as well as host community education and outreach events. Mosaic Life Care's Cost for this education will be based on fair market value hourly rates of presenters, travel expense and mileage and the cost of producing educational materials and marketing costs. The estimated cost of this activity is \$6,624.15.

How does the vendor manage waste? Lamp Environmental Industries Inc. (herein referred to as LEI) is the vendor that will serve our need to eliminate Mercury in our community. LEI is ISO 14001 certified for mercury recycling. They are also one of the few RCRA part-B permitted facilities that recycle mercury and universal wastes.

The mercury wastes that are distributed to this vendor goes through a recycling process in which a physical separation process is used along with a thermal retort process in order to avoid environmental waste. This process eliminates the release of mercury vapors to release to air or groundwater.

LEI will also assist us in the recycling of batteries. The batteries are sealed in one gallon drums. They are treated as universal waste and hazardous waste so that they are properly recycled. Again, there is a physical separation process along with thermal retort processes to avoid the contamination of our groundwater.

This is what the vendor specializes in and we require them to recycle the products we collect within legally accepted practices.

Timeline

An exact timeline is difficult to estimate, but due to the large service areas of the hospital and clinics and the size of the organization, we estimate a one year completion date from the acceptance of the formal plan.

Contact Information

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IN THE MATTER Of Mosaic Life Care, Respondent
Docket No. RCRA-07-2015-0012

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

holden.yolanda@epa.gov

Copy mailed First Class mail to Respondent:

Mosaic Life Care
Christopher Bennett
VP Support Services
5325 Faraon Street
St Joseph, Missouri 64506

Dated: 5/12/14



Kathy Robinson

Hearing Clerk, Region 7