

1 SYLVIA A. QUAST  
Regional Counsel  
2  
3 EDGAR P. CORAL  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
4 Region IX  
75 Hawthorne Street  
5 San Francisco, CA 94105  
(415) 972-3898  
6

\*\* FILED \*\*  
08DEC2015 - 04:25PM  
U.S.EPA - Region 09

7 UNITED STATES  
8 ENVIRONMENTAL PROTECTION AGENCY  
9 REGION IX

10 In the matter of:

) Docket No. TSCA-09-2016- 0004

11  
12 Mangold Property Management, Inc.,

)  
)  
) CONSENT AGREEMENT  
) AND FINAL ORDER  
) pursuant to 40 C.F.R. §§ 22.13(b),  
) 22.18(b)(2), and 22.18(b)(3)  
)

13 Respondent.  
14

15  
16 I. CONSENT AGREEMENT

17 The United States Environmental Protection Agency, Region IX (“EPA”), and Mangold  
18 Property Management, Inc. (the “Respondent”) agree to settle this matter and consent to the entry  
19 of this Consent Agreement and Final Order (“CAFO”). This CAFO simultaneously initiates and  
20 concludes this proceeding in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

21 A. AUTHORITY AND PARTIES

22 1. This is a civil administrative penalty action instituted against Respondent pursuant to  
23 Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), for violation  
24 of Section 1018 of Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992  
25 (“Section 1018”), 42 U.S.C. § 4852d, and federal regulations promulgated to implement Section  
26 1018 at 40 C.F.R. Part 745, Subpart F. Violation of Section 1018 through its implementing  
27 regulations at 40 C.F.R. Part 745, Subpart F constitutes violation of Section 409 of TSCA, 15  
28 U.S.C. § 2689.

1           2. Complainant is the Chief of the Waste and Chemical Section in the Air, Waste, and  
2 Toxics Branch of the Enforcement Division in EPA Region IX, who has been duly delegated the  
3 authority to bring this action and to sign a consent agreement settling this action.

4           3. Respondent owns and/or manages residential properties located in Salinas and  
5 Monterey, California.

6                                   **B. STATUTORY AND REGULATORY BASIS**

7           4. 40 C.F.R. Part 745, Subpart F implements the provisions of Section 1018 that impose  
8 certain disclosure requirements concerning lead-based paint and/or lead-based paint hazards  
9 upon the sale or lease of target housing.

10           5. "Target housing" means any housing constructed prior to 1978, except housing for the  
11 elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is  
12 expected to reside in such housing) or any 0-bedroom dwelling. 40 C.F.R. § 745.103.

13           6. "Lessor" means any entity that offers target housing for lease, rent or sublease,  
14 including but not limited to individuals, partnerships, corporations, trusts, government agencies,  
15 housing agencies, Indian tribes, and nonprofit organizations. 40 C.F.R. § 745.103.

16           7. "Lessee" means any entity that enters into an agreement to lease, rent, or sublease  
17 target housing, including but not limited to individuals, partnerships, corporations, trusts,  
18 government agencies, housing agencies, Indian tribes, and nonprofit organizations. 40 C.F.R. §  
19 745.103.

20           8. Before a lessee is obligated under any contract to lease target housing, the lessor shall  
21 provide the lessee with an EPA-approved lead hazard information pamphlet. 40 C.F.R. §  
22 745.107(a)(1).

23           9. Each contract to lease target housing shall include, as an attachment or within the  
24 contract, a Lead Warning Statement containing language provided in 40 C.F.R. § 745.113(b)(1).  
25 40 C.F.R. § 745.113(b)(1).

26           10. Each contract to lease target housing shall include a statement by the lessor  
27 disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target  
28

1 housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-  
2 based paint hazards. 40 C.F.R. § 745.113(b)(2).

3 11. Each contract to lease target housing shall include a list of any records or reports  
4 available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the target  
5 housing that have been provided to the lessee or indicate that no such records or reports are  
6 available. 40 C.F.R. § 745.113(b)(3).

7 12. Each contract to lease target housing shall include a statement by the lessee affirming  
8 receipt of the information set forth in 40 C.F.R. §§ 745.113(b)(2) and (3) and the lead hazard  
9 information pamphlet required under 15 U.S.C. § 2686. 40 C.F.R. § 745.113(b)(4).

10 13. Each contract to lease target housing shall include the signatures of the lessors,  
11 agents, and lessees certifying to the accuracy of their statements, to the best of their knowledge,  
12 along with the dates of signature. 40 C.F.R. § 745.113(b)(6).

13 14. As provided at 40 C.F.R. § 745.118(e), failure to comply with 40 C.F.R. §§ 745.107  
14 or 745.113 is a violation of Section 409 of TSCA, 15 U.S.C. § 2689, and the penalty for each  
15 such violation shall not be more than \$16,000 for violations occurring after January 12, 2009,  
16 pursuant to the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, which  
17 implements the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410.

18 **C. ALLEGED VIOLATIONS**

19 15. EPA has jurisdiction over this matter pursuant to Section 1018.

20 16. At all times relevant to this matter, Respondent was a “lessor” of residential  
21 properties located at 333 West Laurel Drive in Salinas, California and 555 Ocean Avenue in  
22 Monterey, California, as that term is defined at 40 C.F.R. § 745.103.

23 17. At all times relevant to this matter, the residential properties located at 333 West  
24 Laurel Drive in Salinas, California and 555 Ocean Avenue in Monterey, California were “target  
25 housing,” as that term is defined at 40 C.F.R. § 745.103.

26 18. Respondent entered into three leases of the residential properties referenced in  
27 Paragraphs 16 and 17 for occupancies greater than 100 days or 100 days or less where lease  
28 renewals or extensions could occur on or around the dates listed below:

| <u>Address</u>                                  | <u>Date of Lease</u> |
|---|----------------------|
| 1) 333 West Laurel Drive, Unit #6, Salinas, CA  | October 8, 2010      |
| 2) 333 West Laurel Drive, Unit #15, Salinas, CA | November 15, 2011    |
| 3) 555 Ocean Avenue, Unit #3, Monterey, CA      | July 5, 2011         |

19. At the time that Respondent entered into the first lease referenced in Paragraph 18, Respondent failed to provide the lessee with an EPA-approved lead hazard information pamphlet, as required by 40 C.F.R. § 745.107(a)(1).

20. At the time that Respondent entered into the first lease referenced in Paragraph 18, Respondent failed to include, as an attachment to the lease or within the lease, a Lead Warning Statement containing language provided in 40 C.F.R. § 745.113(b)(1), as required by 40 C.F.R. § 745.113(b)(1).

21. At the time that Respondent entered into the first lease referenced in Paragraph 18, Respondent failed to include in the lease a statement by Respondent disclosing the presence of known lead-based paint and/or lead-based paint hazards in the unit being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, as required by 40 C.F.R. § 745.113(b)(2).

22. At the time that Respondent entered into the first lease referenced in Paragraph 18, Respondent failed to include in the lease a list of any records or reports available to Respondent pertaining to lead-based paint and/or lead-based paint hazards in the unit that had been provided to the lessee or indicate that no such records or reports are available, as required by 40 C.F.R. § 745.113(b)(3).

23. At the time that Respondent entered into the first lease referenced in Paragraph 18, Respondent failed to include in the lease a statement by the lessee affirming receipt of the information set forth in 40 C.F.R. §§ 745.113(b)(2) and (3) and the lead hazard information pamphlet required under 15 U.S.C. § 2686, as required by 40 C.F.R. § 745.113(b)(4).

24. At the time that Respondent entered into the three leases referenced in Paragraph 18, Respondent failed to include the signature of Respondent and the lessees certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature, as required by 40 C.F.R. § 745.113(b)(6).



1 New York, NY 10045  
2 Field Tag 4200 of the Fedwire message should read "D 68010727  
3 Environmental Protection Agency"

4 Overnight Mail:  
5 U.S. Bank  
6 1005 Convention Plaza  
7 Mail Station SL-MO-C2GL  
8 ATTN Box 979077  
9 St. Louis, MO 63101

10 ACH (also known as REX or remittance express):  
11 Automated Clearinghouse (ACH) for receiving U.S. currency  
12 PNC Bank  
13 808 17<sup>th</sup> Street, NW  
14 Washington, DC 20074 ABA = 051036706  
15 Transaction Code 22 – checking  
16 Environmental Protection Agency  
17 Account 31006  
18 CTX Format

19 On Line Payment:  
20 This payment option can be accessed from the information below:  
21 [www.pay.gov](http://www.pay.gov)  
22 Enter "sfo1.1" in the search field  
23 Open form and complete required fields

24 If clarification regarding a particular method of payment remittance is  
25 needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

26 A copy of each check, or notification that the payment has been made by one of the other  
27 methods listed above, including proof of the date payment was made, shall be sent with a  
28 transmittal letter, indicating Respondent's name, the case title, and docket number, to the  
following addresses:

29 Regional Hearing Clerk  
30 Office of Regional Counsel (ORC-1)  
31 U.S. Environmental Protection Agency, Region IX  
32 75 Hawthorne Street  
33 San Francisco, CA 94105

34 Max Weintraub  
35 Waste and Chemical Section  
36 Enforcement Division (ENF-2-2)  
37 U.S. Environmental Protection Agency, Region IX  
38 75 Hawthorne Street  
39 San Francisco, CA 94105

1           28. Respondent shall not use payment of any penalty under this CAFO as a tax deduction  
2 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to  
3 use such payment as a tax deduction.

4           29. If Respondent fails to pay the assessed civil administrative penalty of NINETEEN  
5 THOUSAND, SEVEN HUNDRED, AND FORTY DOLLARS (\$19,740), as identified in  
6 Paragraph 27, by the deadline specified in that Paragraph, then Respondent shall pay a stipulated  
7 penalty to EPA of \$150 per day in addition to the assessed penalty. Stipulated penalties shall  
8 accrue until such time as the assessed penalty and all accrued stipulated penalties are paid and  
9 shall become due and payable upon EPA's written request. Failure to pay the civil administrative  
10 penalty specified in Paragraph 27 by the deadline specified in that Paragraph may also lead to any  
11 or all of the following actions:

12                       (1) EPA may refer the debt to a credit reporting agency, a collection  
13 agency, or to the Department of Justice for filing of a collection action in the appropriate United  
14 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and  
15 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such  
16 collection proceeding.

17                       (2) The U.S. Government may collect the debt by administrative offset  
18 (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a  
19 person to satisfy the debt the person owes the U.S. Government), which includes, but is not  
20 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40  
21 C.F.R. §§ 13(C) and 13(H).

22                       (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke  
23 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing  
24 business with EPA or engaging in programs EPA sponsors or funds.

25                       (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.  
26 Government may assess interest, administrative handling charges, and nonpayment penalties  
27 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the  
28 civil administrative penalty specified in Paragraph 27 by the deadline specified in that Paragraph.

1 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R.  
2 §13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established  
3 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,  
4 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty  
5 (30) days of the effective date of this CAFO.

6 (b) Administrative Handling Charges. Pursuant to 31 U.S.C.  
7 Section 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge,  
8 based on either actual or average cost incurred (including both direct and indirect costs), for  
9 every month in which any portion of the assessed penalty is more than thirty (30) days past due.

10 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)  
11 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,  
12 may be assessed on all debts more than ninety (90) days delinquent.

13 **F. CERTIFICATION OF COMPLIANCE**

14 30. In executing this CAFO, Respondent certifies that it is now fully in compliance with  
15 Section 1018 and federal regulations promulgated to implement Section 1018 at 40 C.F.R. Part  
16 745, Subpart F.

17 **G. RETENTION OF RIGHTS**

18 31. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's  
19 liabilities for federal civil penalties for the violation and facts specifically alleged in Section I.C  
20 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil  
21 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
22 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal  
23 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
24 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
25 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

26 32. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's  
27 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,  
28 and permits.



1 H. ATTORNEYS' FEES AND COSTS

2 33. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in  
3 this proceeding.

4 I. EFFECTIVE DATE

5 34. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be  
6 effective on the date that the Final Order contained in this CAFO, having been approved and  
7 issued by either the Regional Judicial Officer or Regional Administrator, is filed.


8 J. BINDING EFFECT

9 35. The undersigned representative of Complainant and the undersigned representative of  
10 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
11 of this CAFO and to bind the party he or she represents to this CAFO.

12 36. The provisions of this CAFO shall apply to and be binding upon Respondent and its  
13 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,  
14 and assigns.


15  
16  
17 FOR RESPONDENT MANGOLD PROPERTY MANAGEMENT, INC.:

18  
19 11/17/15  
DATE

20   
THOMAS H. MANGOLD  
Owner  
Mangold Property Management, Inc.

21  
22 FOR COMPLAINANT EPA:

23  
24 12/7/15  
DATE

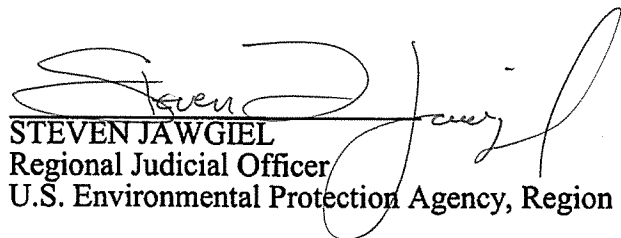
25   
DOUGLAS K. MCDANIEL  
Chief, Waste and Chemical Section  
Enforcement Division  
U.S. Environmental Protection Agency, Region IX

1 II. FINAL ORDER

2 EPA and Mangold Property Management, Inc. having entered into the foregoing Consent  
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2016-0004) be  
5 entered, and Respondent shall pay a civil administrative penalty in the amount of NINETEEN  
6 THOUSAND, SEVEN HUNDRED, AND FORTY DOLLARS (\$19,740), and comply with the  
7 terms and conditions set forth in the Consent Agreement.

8  
9  
10 12/08/15  
11 DATE

12   
13 STEVEN JAWGIEL  
14 Regional Judicial Officer  
15 U.S. Environmental Protection Agency, Region IX  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## CERTIFICATE OF SERVICE

I hereby certify that the original ~~and a copy~~ of the foregoing Consent Agreement and Final Order in the matter of Mangold Property Management, Inc. with Docket # TSCA-09-2016-0004 has been filed with the Regional Hearing Clerk, Region IX and copies were sent:

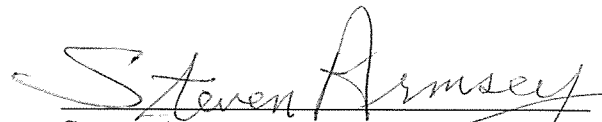
By Certified Mail, Return Receipt Requested to Respondent:

Thomas H. Mangold  
Mangold Property Management, Inc.  
575 Calle Principal  
Monterey, CA 93940  
Certified Mail Receipt #: 7014 2120 0003 0493 2280

Hand Delivered to:

Edgar Coral  
Office of Regional Counsel  
U.S. EPA, Region 9, ORC-2  
75 Hawthorne Street  
San Francisco, CA 94105

Dec. 8, 2015  
Date

  
Steven Armsey  
Acting Regional Hearing Clerk