



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph Peck
 Legal Counsel
 YRC, Inc.
 10990 Roe Ave.
 Overland Park, Kansas 66211

Re: YRC, Inc, Overland Park, Kansas.
 Consent Agreement and Final Order
 Docket No. CERCLA-05-2012-0008

2012 JUN 19 PM 12:52
 COMMUNICATIONS SECTION
 U.S. ENVIRONMENTAL PROTECTION AGENCY
 CHICAGO, IL 60604-3590

Dear Mr. Peck:

Enclosed please find one copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA filed original CAFO with the Regional Hearing Clerk on 4/13/2012 *JP*.

Please pay the CERCLA civil penalty (**Installment 1**) in the amount of \$18,281 in the manner prescribed in paragraph 30 and 31, reference your check with the CERCLA billing document number 2751298B001 and the docket number CERCLA-05-2012-0008 *JP*

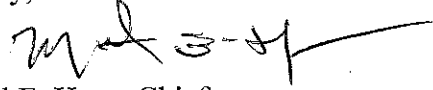
The payment is due on 5/15/2012 *JP*.

Please pay the CERCLA civil penalty (**Installment 2**) in the amount of \$18,281 in the manner prescribed in paragraph 30 and 31, reference your check with the CERCLA billing document number 2751298B001 and the docket number CERCLA-05-2012-0008 *JP*

The payment is due on 6/29/2012 *JP*.

Please feel free to contact Ruth McNamara at (312) 353-3193 if you have any questions regarding the enclosed documents. Please direct any legal questions to Jose de Leon, Associate Regional Counsel, at (312) 353-3456. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. E. Hans", with a long horizontal stroke extending to the right.

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Ian Ewusi-Wilson
IN SERC Contact (w/enclosure)

RECEIVED

APR 13 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No.	CERCLA-05-2012-0008
)		
YRC Inc.)	Proceeding to Assess a Civil Penalty Under	
Overland Park, Kansas)	Section 109(b) of the Comprehensive	
)	Environmental Response, Compensation,	
Respondent.)	and Liability Act	
_____)		

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Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is YRC Inc., a corporation, doing business in the State of Indiana.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies liability or the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the hazardous substance's reportable quantity.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the government's response to an emergency and pose serious threats to human health and the environment.

11. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$32,500 per day of violation that occurred after March 15, 2004 through January 12, 2009 and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

12. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
13. At all times relevant to this CAFO, Respondent was in charge of a tandem semi-rig carrying 4-350 gallons of Black Magic (facility).
14. Respondent's facility consists of equipment, storage container, motor vehicle, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.
15. Respondent's facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
16. Sodium nitrite CAS# 7632-00-0 is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
17. Sodium nitrite CAS# 7632-00-0 has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.
18. Sodium hydroxide CAS# 1310-73-2 is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
19. Sodium hydroxide CAS# 1310-73-2 has a reportable quantity of 1,000 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.
20. On June 25, 2010, at or about 1719 ET, a release occurred from Respondent's facility of approximately 1,648 pounds of sodium nitrite and 6,591 pounds of sodium hydroxide (the release).
21. In a 24 hour time period, the release of sodium nitrite and sodium hydroxide exceeded the 100 pound and 1,000 pound reportable quantity, respectively.

22. During the release, approximately 1,648 pounds of sodium nitrite and 6,591 pounds of sodium hydroxide spilled, leaked, pumped, poured, emitted, emptied, discharged, or escaped, into the land surface or subsurface strata.

23. The release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

24. Respondent had knowledge of the release on June 25, 2010, at approximately 1719 ET.

25. The release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

26. Respondent notified the NRC of the release of sodium nitrite on June 25, 2010, at 2200 ET.

27. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

28. Respondent's failure to immediately notify the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Civil Penalty

29. Complainant has determined that an appropriate civil penalty to settle this action is \$36,562 for the CERCLA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency

Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

30. Respondent must pay the \$36,562 civil penalty in two installments with interest as follows: \$18,281 within 30 days of the effective date of this CAFO; and \$18,281 within 75 days of the effective date of this CAFO;

Respondent must pay the installments by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. EPA
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

The check must note the following: In the Matter of: YRC Inc., the docket number of this CAFO, and the billing document number 27512988001

31. A transmittal letter, stating the Respondent's name, case title, Respondent's complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Ruth McNamara, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Jose C. de Leon, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

32. This civil penalty is not deductible for federal tax purposes.

33. If Respondent does not timely pay any installment payment as set forth in paragraph 30, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 34, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

34. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

35. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

36. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

37. Respondent certifies that that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

38. This CAFO does not affect Respondent's responsibility to comply with CERCLA and other applicable federal, state and local laws, and regulations.

39. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

40. The terms of this CAFO bind Respondent and its successors and assigns.

41. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

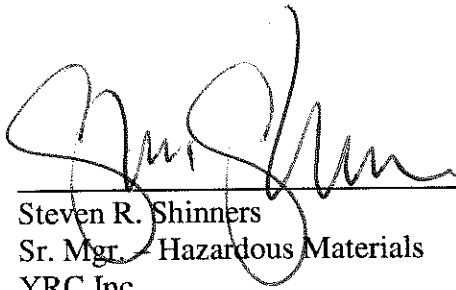
42. Each party agrees to bear its own costs and attorney's fees in this action.

43. This CAFO constitutes the entire agreement between the parties.

In the Matter of: YRC Inc., Overland Park, Kansas
Docket No. CERCLA-05-2012-0008

YRC Inc., Respondent

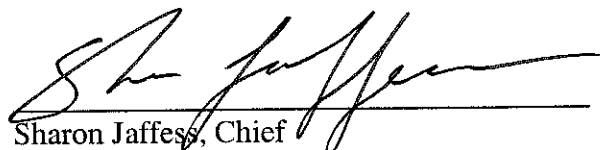
3/7/12
Date



Steven R. Shinnars
Sr. Mgr. - Hazardous Materials
YRC Inc.

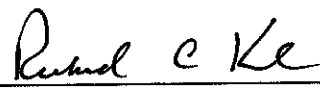
U.S. Environmental Protection Agency, Complainant

4/2/12
Date



Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
Superfund Division
U.S. Environmental Protection Agency
Region 5

4-6-12
Date



Richard C. Karl
Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

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In the Matter of: YRC Inc., Overland Park, Kansas
Docket No. CERCLA-05-2012-0008

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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4-9-12

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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In the Matter of: YRC Inc., Overland Park, Kansas

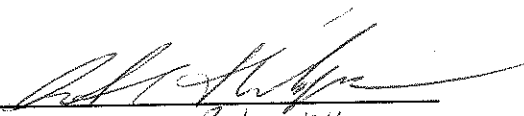
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Certificate of Service

I, Ruth McNamara, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed a second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Joseph Pec
Assistant General Counsel
YRC Worldwide Inc.
10990 Roe Ave.
Overland Park, Kansas 66211

on the 13th day of April, 2011


Ruth McNamara
U.S. Environmental Protection Agency
Region 5