

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

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IN RE:)
) DOCKET NO. EPCRA-09-2011-0004
)
BARRICK CORTEZ, INC.;)
) SECOND AMENDED COMPLAINT
) AND NOTICE OF OPPORTUNITY
BARRICK GOLD U.S., INC.;)
) FOR HEARING
)
HOMESTAKE MINING COMPANY)
OF CALIFORNIA;)
)
RESPONDENTS)
_____)

AUTHORITY AND PARTIES

1. This is a civil administrative action brought pursuant to Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for assessment of a civil administrative penalty against Barrick Cortez, Inc. ("BCI"); Barrick Gold U.S., Inc. ("BGI"); and Homestake Mining Company of California ("Homestake"). Complainant is the Director of the Communities and Ecosystems Division, EPA, Region IX, who has been duly delegated the authority to bring this action.
2. Respondents are BCI, BGI, and Homestake ("Respondents").
3. Second Amended Complaint will allege that Respondent BCI violated Section 313 of EPCRA by failing to timely report its manufacturing of antimony compounds for calendar years 2005 through 2007, arsenic compounds for calendar years 2005 and 2006, barium compounds for calendar years 2005 through 2007, cadmium compounds for calendar years

2005 and 2007, chromium compounds for calendar year 2007, cobalt compounds for calendar years 2005 through 2007, nitrate compounds for calendar year 2007, thallium compounds for calendar year 2005, and vanadium compounds for calendar year 2007.

4. Second Amended Complaint will allege that Respondent BCI violated Section 313 of EPCRA by failing to accurately report its manufacturing of arsenic compounds for calendar year 2007; manufacturing of chromium compounds for calendar years 2005 and 2006; manufacturing of copper compounds for calendar years 2005 through 2007; otherwise use of cyanide compounds for calendar years 2005 through 2007; processing of lead compounds for calendar year 2007; manufacturing of mercury compounds for calendar year 2007; manufacturing of nickel compounds for calendar years 2005 through 2007; and manufacturing of nitrate compounds for calendar years 2005 and 2006.
5. Second Amended Complaint will allege that Respondent BGI violated Section 313 of EPCRA by failing to timely report its otherwise use of methanol for calendar year 2008.
6. Second Amended Complaint will allege that Respondent BGI violated Section 313 of EPCRA by failing to accurately report its manufacturing of copper compounds for calendar year 2008; manufacturing of hydrogen cyanide for calendar year 2007; manufacturing of mercury compounds for calendar years 2007 and 2008; manufacturing of nitrate compounds for calendar years 2007 and 2008; otherwise use of cyanide compounds for calendar years 2007 and 2008; and otherwise use of lead compounds for calendar year 2008.
7. Second Amended Complaint will allege that Respondent Homestake violated Section 313 of EPCRA by failing to timely report its processing of antimony compounds for calendar year 2007; arsenic compounds for calendar years 2007 and 2008; barium compounds for calendar years 2007 and 2008; chromium compounds for calendar year 2007; copper

compounds for calendar year 2007; lead compounds for calendar year 2008; and zinc compounds for calendar year 2007 and 2008.

8. Second Amended Complaint will allege that Respondent Homestake violated Section 313 of EPCRA by failing to accurately report its manufacturing of nitrate compounds for calendar year 2008; otherwise use of cyanide compounds for calendar years 2007 and 2008; and processing of mercury compounds for calendar years 2007 and 2008.

STATUTORY AND REGULATORY BACKGROUND

9. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for the submission of information relating to the release of toxic chemicals under Section 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.
10. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. §§ 372.22 and 372.30, provide that the owner or operator of a facility that (i) has ten or more full-time employees; (ii) is in Standard Industrial Classification Codes 10 (except 1011, 1081, and 1094); 12 (except 1241); 20 through 39; 4911, 4931, and 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act); 5169; 5171; and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and (iii) manufactured, processed, or otherwise used one or more toxic chemicals listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.28 and 372.65 in excess of applicable threshold quantities set forth in 40 C.F.R. § 372.25, § 372.27, or § 372.28, must submit to EPA and the State in which the facility is located a chemical release

form published under Section 313(g) of EPCRA for each such toxic chemical.

11. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a “Form R”) for facilities that are subject to the reporting requirements of Section 313. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that a complete and accurate Form R for activities involving a toxic chemical that occurred during a calendar year must be submitted on or before July 1 of the next year.

GENERAL ALLEGATIONS

12. Respondent BCI is a Delaware corporation and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
13. At all times relevant to this matter, Respondent BCI operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located near Crescent Valley, Nevada (hereinafter referred to as the “BCI Facility”).
14. At all times relevant to this matter, the BCI Facility had 10 or more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.
15. At all times relevant to this matter, the BCI Facility was in Standard Industrial Classification Codes 1049.
16. Respondent BGI is a California corporation doing business as Bald Mountain Mine and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
17. At all times relevant to this matter, Respondent BGI operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located 70 miles southeast of Elko, Nevada (hereinafter referred to as the “BGI Facility”).
18. At all times relevant to this matter, the BGI Facility had 10 or more “full-time employees,”

as that term is defined at 40 C.F.R. § 372.3.

19. At all times relevant to this matter, the BGI Facility was in Standard Industrial Classification Code 1049.
20. Respondent Homestake is a California corporation doing business as Ruby Hill Mine and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
21. At all times relevant to this matter, Respondent Homestake operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located near the intersection of Highway 50 and State Route 278 near Eureka, Nevada (hereinafter referred to as the “Homestake Facility”).
22. At all times relevant to this matter, the Homestake Facility had 10 or more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.
23. At all times relevant to this matter, the Homestake Facility was in Standard Industrial Classification Code 1049.

VIOLATIONS

I. BCI Violations

COUNT 1: Failure to Submit Timely Form R for Antimony Compounds for 2005

24. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
25. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of antimony compounds (N010), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
26. Antimony compound (N010) is a toxic chemical listed under 40 C.F.R. § 372.65.
27. The threshold for reporting antimony compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and

40 C.F.R. § 372.25.

28. Respondent BCI was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
29. Respondent BCI failed to submit a Form R for antimony compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
30. Respondent BCI's failure to submit a Form R for antimony compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 2: Failure to Submit Timely Form R for Arsenic Compounds for 2005

31. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
32. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of arsenic compounds (N020), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
33. Arsenic compound (N020) is a toxic chemical listed under 40 C.F.R. § 372.65.
34. The threshold for reporting arsenic compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
35. Respondent BCI was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
36. Respondent BCI failed to submit a Form R for arsenic compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
37. Respondent BCI's failure to submit a Form R for arsenic compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 3: Failure to Submit Timely Form R for Barium Compounds for 2005

38. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
39. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of barium compounds (N040), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
40. Barium compound (N040) is a toxic chemical listed under 40 C.F.R. § 372.65.
41. The threshold for reporting barium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
42. Respondent BCI was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
43. Respondent BCI failed to submit a Form R for barium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
44. Respondent BCI’s failure to submit a Form R for barium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 4: Failure to Submit Timely Form R for Cadmium Compounds for 2005

45. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
46. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of cadmium compounds (N078), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
47. Cadmium compound (N078) is a toxic chemical listed under 40 C.F.R. § 372.65.
48. The threshold for reporting cadmium compounds “manufactured” at the BCI Facility is

25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

49. Respondent BCI was required to submit a complete and accurate Form R for cadmium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
50. Respondent BCI failed to submit a Form R for cadmium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
51. Respondent BCI's failure to submit a Form R for cadmium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 5: Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2005

52. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
53. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of chromium compounds (N090), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
54. Chromium compound (N090) is a toxic chemical listed under 40 C.F.R. § 372.65.
55. The threshold for reporting chromium compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
56. Respondent BCI was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
57. Respondent BCI failed to submit a complete and accurate Form R for chromium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.

58. Respondent BCI's failure to submit a complete and accurate Form R for chromium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 6: Failure to Submit Timely Form R for Cobalt Compounds for 2005

59. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
60. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of cobalt compounds (N096), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
61. Cobalt compound (N096) is a toxic chemical listed under 40 C.F.R. § 372.65.
62. The threshold for reporting cobalt compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
63. Respondent BCI was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
64. Respondent BCI failed to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
65. Respondent BCI's failure to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 7: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2005

66. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
67. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of copper compounds (N100), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

68. Copper compound (N100) is a toxic chemical listed under 40 C.F.R. § 372.65.
69. The threshold for reporting copper compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
70. Respondent BCI was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
71. Respondent BCI failed to submit a complete and accurate Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
72. Respondent BCI’s failure to submit a complete and accurate Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 8: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2005

73. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
74. During the calendar year 2005, Respondent BCI “otherwise used” over 10,000 pounds of cyanide compounds (N106), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
75. Cyanide compound (N106) is a toxic chemical listed under 40 C.F.R. § 376.65.
76. The threshold for reporting cyanide compounds “otherwise used” at the BCI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
77. Respondent BCI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
78. Respondent BCI failed to submit a complete and accurate Form R for cyanide compounds

for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.

79. Respondent BCI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 9: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2005

80. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
81. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of nickel compounds (N495), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
82. Nickel compound (N495) is a toxic chemical listed under 40 C.F.R. § 372.65.
83. The threshold for reporting nickel compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
84. Respondent BCI was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
85. Respondent BCI failed to submit a complete and accurate Form R for nickel compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
86. Respondent BCI's failure to submit a complete and accurate Form R for nickel compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 10: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2005

87. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

88. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of nitrate compounds (N511), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
89. Nitrate compound (N511) is a toxic chemical listed under 40 C.F.R. § 372.65.
90. The threshold for reporting nitrate compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
91. Respondent BCI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
92. Respondent BCI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
93. Respondent BCI’s failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 11: Failure to Submit Timely Form Rs for Thallium Compounds for 2005

94. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
95. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of thallium compounds (N760), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
96. Thallium compound (N760) is a toxic chemical listed under 40 C.F.R. § 372.65.
97. The threshold for reporting thallium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
98. Respondent BCI was required to submit a complete and accurate Form R for thallium

compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.

99. Respondent BCI failed to submit a Form R for thallium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
100. Respondent BCI's failure to submit a Form R for thallium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 12: Failure to Submit Timely Form R for Antimony Compounds for 2006

101. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
102. During the calendar year 2006, Respondent BCI "manufactured" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
103. Antimony compound is a toxic chemical listed under 40 C.F.R. § 372.65.
104. The threshold for reporting antimony compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
105. Respondent BCI was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
106. Respondent BCI failed to submit a Form R for antimony compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
107. Respondent BCI's failure to submit a Form R for antimony compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 13: Failure to Submit Timely Form R for Arsenic Compounds for 2006

108. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

109. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of arsenic compounds (N020), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
110. Arsenic compound (N020) is a toxic chemical listed under 40 C.F.R. § 372.65.
111. The threshold for reporting arsenic compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
112. Respondent BCI was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
113. Respondent BCI failed to submit a Form R for arsenic compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
114. Respondent BCI’s failure to submit a Form R for arsenic compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 14: Failure to Submit Timely Form R for Barium Compounds for 2006

115. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
116. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
117. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
118. The threshold for reporting barium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
119. Respondent BCI was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.

120. Respondent BCI failed to submit a Form R for barium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
121. Respondent BCI's failure to submit a Form R for barium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 15: Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2006

122. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
123. During the calendar year 2006, Respondent BCI "manufactured" over 25,000 pounds of chromium compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
124. Chromium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
125. The threshold for reporting chromium compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
126. Respondent BCI was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
127. Respondent BCI failed to submit a complete and accurate Form R for chromium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
128. Respondent BCI's failure to submit a complete and accurate Form R for chromium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 16: Failure to Submit Timely Form R for Cobalt Compounds for 2006

129. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

130. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
131. Cobalt compound is a toxic chemical listed under 40 C.F.R. § 372.65.
132. The threshold for reporting cobalt compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
133. Respondent BCI was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
134. Respondent BCI failed to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
135. Respondent BCI’s failure to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 17: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2006

136. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
137. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
138. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.
139. The threshold for reporting copper compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
140. Respondent BCI was required to submit a complete and accurate Form R for copper

compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.

141. Respondent BCI failed to submit a complete and accurate Form R for copper compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
142. Respondent BCI's failure to submit a complete and accurate Form R for copper compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 18: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2006

143. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
144. During the calendar year 2006, Respondent BCI "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
145. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 376.65.
146. The threshold for reporting cyanide compounds "otherwise used" at the BCI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
147. Respondent BCI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
148. Respondent BCI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
149. Respondent BCI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 19: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2006

150. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
151. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of nickel compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
152. Nickel compound is a toxic chemical listed under 40 C.F.R. § 372.65.
153. The threshold for reporting nickel compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
154. Respondent BCI was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
155. Respondent BCI failed to submit a complete and accurate Form R for nickel compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
156. Respondent BCI’s failure to submit a complete and accurate Form R for nickel compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 20: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2006

157. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
158. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
159. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
160. The threshold for reporting nitrate compounds “manufactured” at the BCI Facility is 25,000

pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

161. Respondent BCI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
162. Respondent BCI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
163. Respondent BCI's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 21: Failure to Submit Timely Form R for Antimony Compounds for 2007

164. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
165. During the calendar year 2007, Respondent BCI "manufactured" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
166. Antimony compound is a toxic chemical listed under 40 C.F.R. § 372.65.
167. The threshold for reporting antimony compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
168. Respondent BCI was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
169. Respondent BCI failed to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
170. Respondent BCI's failure to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of

EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 22: Failure to Submit Timely, Complete and Accurate Form R for Arsenic Compounds for 2007

171. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
172. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of arsenic compounds as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
173. Arsenic compound is a toxic chemical listed under 40 C.F.R. § 372.65.
174. The threshold for reporting arsenic compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
175. Respondent BCI was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
176. Respondent BCI failed to submit a complete and accurate Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
177. Respondent BCI’s failure to submit a complete and accurate Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 23: Failure to Submit Timely Form R for Barium Compounds for 2007

178. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
179. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
180. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
181. The threshold for reporting barium compounds “manufactured” at the BCI Facility is 25,000

pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

182. Respondent BCI was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
183. Respondent BCI failed to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
184. Respondent BCI's failure to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 24: Failure to Submit Timely Form R for Cadmium Compounds for 2007

185. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
186. During the calendar year 2007, Respondent BCI "manufactured" over 25,000 pounds of cadmium compounds (N078), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
187. Cadmium compound (N078) is a toxic chemical listed under 40 C.F.R. § 372.65.
188. The threshold for reporting cadmium compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
189. Respondent BCI was required to submit a complete and accurate Form R for cadmium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
190. Respondent BCI failed to submit a Form R for cadmium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
191. Respondent BCI's failure to submit a Form R for cadmium compounds for calendar year

2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 25: Failure to Submit Timely Form R for Chromium Compounds for 2007

192. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
193. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of chromium compounds (N090), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
194. Chromium compound (N090) is a toxic chemical listed under 40 C.F.R. § 372.65.
195. The threshold for reporting chromium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
196. Respondent BCI was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
197. Respondent BCI failed to submit a Form R for chromium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
198. Respondent BCI’s failure to submit a Form R for chromium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 26: Failure to Submit Timely Form R for Cobalt Compounds for 2007

199. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
200. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
201. Cobalt compound is a toxic chemical listed under 40 C.F.R. § 372.65.

202. The threshold for reporting cobalt compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
203. Respondent BCI was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
204. Respondent BCI failed to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
205. Respondent BCI’s failure to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 27: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2007

206. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
207. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
208. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.
209. The threshold for reporting copper compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
210. Respondent BCI was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
211. Respondent BCI failed to submit a complete and accurate Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

212. Respondent BCI's failure to submit a complete and accurate Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 28: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

213. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

214. During the calendar year 2007, Respondent BCI "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

215. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 376.65.

216. The threshold for reporting cyanide compounds "otherwise used" at the BCI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

217. Respondent BCI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

218. Respondent BCI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

219. Respondent BCI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 29: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2007

220. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

221. During the calendar year 2007, Respondent BCI "processed" over 100 pounds of lead

compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

222. Lead compound is a toxic chemical listed under 40 C.F.R. § 372.65.
223. The threshold for reporting lead compounds “processed” at the BCI Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
224. Respondent BCI was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
225. Respondent BCI failed to submit a complete and accurate Form R for lead compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
226. Respondent BCI’s failure to submit a complete and accurate Form R for lead compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 30: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

227. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
228. During the calendar year 2007, Respondent BCI “manufactured” over 10 pounds of mercury compounds (N458), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
229. Mercury compound (N458) is a toxic chemical listed under 40 C.F.R. § 372.65.
230. The threshold for reporting mercury compounds “manufactured” at the BCI Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
231. Respondent BCI was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.