

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



_____ )	Docket Nos. RCRA-09-2024-0068
)	TSCA-09-2024-0069
)	
U.S. Ecology Nevada, Inc. )	CONSENT AGREEMENT
)	AND FINAL ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 and 22.18
Respondent. )	
_____ )	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”) and U.S. Ecology Nevada, Inc. (“USEN” or “Respondent”) agree to settle this case initiated under the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 *et seq.*, and the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2601 *et seq.*, and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter pursuant to 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action brought against Respondent pursuant to Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), for the assessment of a civil administrative penalty against Respondent for a violation of Section 3004 of RCRA, 42 U.S.C. § 6924; Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the assessment of a civil administrative penalty against Respondent for violations of Section 15 of TSCA, 15 U.S.C. § 2614; and

the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations (C.F.R.) Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, EPA Region IX. The Administrator of EPA delegated to the Regional Administrator of EPA Region IX the authority to bring this action under RCRA and TSCA. In turn, the Regional Administrator of EPA Region IX further delegated the authority to bring this action under RCRA and TSCA to the Director of the Enforcement and Compliance Assurance Division.
3. Respondent is a Delaware corporation, with its principal offices located at 701 S. Carson Street, Suite 200 in Carson City, Nevada.

#### B. APPLICABLE STATUTORY AND REGULATORY BASIS

##### **RCRA**

4. Pursuant to Section 3004 of RCRA, 42 U.S.C. § 6924, EPA has promulgated regulations applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste.
5. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of a law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

6. On August 19, 1985, the State of Nevada received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926 and 40 C.F.R. Part 271, effective October 18, 1985. The authorized program is established pursuant to the Nevada Revised Statutes § 445.120, and the regulations promulgated thereunder in the Nevada Administrative Code (“N.A.C.”). Effective June 12, 1995, the State of Nevada received authorization for revisions to N.R.S. § 445C.120, *et seq.* Accordingly, the Nevada Division of Environmental Protection has issued regulations at N.A.C. § 444.8632, incorporating by reference federal RCRA regulations, including 40 C.F.R. Parts 260 through 271.<sup>1</sup>
7. “Person” means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body. 40 C.F.R. § 260.10.
8. “Facility” means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. 40 C.F.R. § 260.10.
9. “Operator” means the person responsible for the overall operation of a facility. 40 C.F.R. § 260.10.
10. “Owner” means the person who owns a facility or part of a facility. 40 C.F.R. § 260.10.

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<sup>1</sup> EPA is enforcing Nevada hazardous waste management program requirements as approved and authorized by the United States on August 19, 1985, and June 12, 1995, as updated in 1999, 2002, 2009, 2016, and 2021. See <http://www.epa.gov/rcra/federal-register-notice-and-state-authorization-tracking-system-stats-reports-state#nevada>. For clarity, hereinafter only citations to the relevant federal regulations will be provided.

11. “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. 40 C.F.R. § 260.10.
12. “Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. 40 C.F.R. § 260.10.
13. “Treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. 40 C.F.R. § 260.10.
14. “Hazardous waste” means a hazardous waste as defined in 40 C.F.R. § 261.3. 40 C.F.R. § 260.10.
15. 40 C.F.R. Part 268 identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed. 40 C.F.R. Part 268 became effective on November 8, 1986.
16. Under 40 C.F.R. § 268.45(a), hazardous debris must be treated prior to land disposal according to applicable treatment standards specified therein.

17. "Hazardous debris" means debris that contains a hazardous waste listed in Subpart D of Part 261, or that exhibits a characteristic of hazardous waste identified in Subpart C of 40 C.F.R. Part 261. 40 C.F.R. § 268.2(h).
18. "Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. 40 C.F.R. § 268.2(g).
19. Table 1 (Alternative Treatment Standards for Hazardous Debris) of 40 C.F.R. § 268.45(a) identifies macroencapsulation as an immobilization technology involving application of surface coating materials such as polymeric organics or use of a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media and specifies the following performance and/or design and operating standard:  
  
"Encapsulating material must completely encapsulate debris and be resistant to degradation by the debris and its contaminants and materials into which it may come into contact after placement (leachate, other waste, microbes)."

## **TSCA**

20. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), EPA promulgated regulations at 40 C.F.R. Part 761 that govern the manufacturing, processing, distribution in commerce, marking, storage and disposal of PCBs.
21. "PCB" and "PCBs" mean any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substances. 40 C.F.R. § 761.3.

22. "PCB Item" means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs. 40 C.F.R. § 761.3.
23. "PCB waste(s)" means those PCBs and PCB Items that are subject to the disposal requirements of Subpart D of 40 C.F.R. Part 761. 40 C.F.R. § 761.3.
24. "Person" means any natural or judicial person including any individual, corporation, partnership, or association; any State or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 761.3.
25. "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for the treatment, storage, or disposal of PCB waste. 40 C.F.R. § 761.3.
26. "Disposal" means intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items. 40 C.F.R. § 761.3.
27. "Storage for disposal" means temporary storage of PCBs that have been designated for disposal. 40 C.F.R. § 761.3.
28. Any person storing, treating, or disposing of PCB waste must do so in accordance with Subpart D of 40 C.F.R. Part 761. 40 C.F.R. § 761.50(a).

29. Section 15 of TSCA, 15 U.S.C. § 2614, provides that “[i]t shall be unlawful for any person to (1) fail or refuse to comply with . . . (B) any requirement prescribed by section 2604 or 2605 [Section 6 of TSCA] of this title, (C) any rule promulgated or order issued under section 2604 or 2605 of this title. . . .”

### C. GENERAL ALLEGATIONS

#### **RCRA**

30. Respondent is a “person” as that term is defined by 40 C.F.R. § 260.10.
31. Respondent operates a “facility” (the “Facility”) as that term is defined by 40 C.F.R. § 260.10 on State Highway 95 near Beatty, Nevada, that stores, manages, and disposes of RCRA hazardous wastes.
32. In December 2011, the Nevada Division of Environmental Protection issued the RCRA Hazardous Waste Facility Permit #NEV HW0015 (the “Permit”) to Respondent for operations at the Facility.
33. Under Condition 7.1.2 of the Permit, as amended, Respondent is prohibited from disposing of any hazardous waste not meeting the treatment standards of 40 C.F.R. Part 268.
34. During September 14-16, 2021, EPA inspected the Facility to assess compliance with the Permit and applicable RCRA regulations, including 40 C.F.R. Part 268 (the “RCRA Inspection”).

#### **TSCA**

35. Respondent is a “person” as that term is defined by 40 C.F.R. § 761.3.
36. At the Facility Respondent stores, manages, and disposes of PCB wastes.

37. On November 5, 2012, EPA issued a PCB Approval (the “Approval”) to the Respondent pursuant to 40 C.F.R. Part 761 to store, manage, and dispose of PCB wastes within the Facility at: (1) the PCB Storage and Processing Building (“PSPB”); (2) PCB Tank Farm; (3) PCB Tank Truck Loading Pad; (4) Stabilization Tanks (Treatment Pans #4 and #5); (5) an Evaporation Tank (only for PCB wastes with concentrations less than 50 parts per million); and (6) Trenches 12 and 13. The Approval was amended on June 22, 2016.
38. During September 15-16, 2021, EPA inspected the Facility to assess compliance with the Approval and applicable PCB regulations set forth at 40 C.F.R. Part 761 (the “TSCA Inspection”).
39. On November 29, 2021, EPA sent an information request (the “Information Request”) to the Respondent regarding its compliance at the Facility with the requirements of TSCA and 40 C.F.R. Part 761.
40. On December 29, 2021, Respondent submitted its response to the Information Request.

D. ALLEGED VIOLATIONS

RCRA

Count 1

**(Failure to Comply with the Treatment Standards for Land Disposal of Hazardous Debris;**

**N.A.C. § 444.8632 and 40 C.F.R. § 268.45)**

41. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
42. During the RCRA Inspection at the Facility on or about September 15, 2021, EPA inspectors collected documentation demonstrating land disposal of organic RCRA



hazardous debris by macroencapsulation at the Facility on or about August 4, 5, 18, 19, 23, 26, and 31, 2021, and September 1, 2021.

43. Macroencapsulation of organic RCRA hazardous debris with organic polymer encapsulants constitutes a violation of Table 1 (Alternative Treatment Standards for Hazardous Debris) of 40 C.F.R. § 268.45(a) because the encapsulating material is not resistant to degradation by the debris and its contaminants after placement.
44. Accordingly, EPA alleges that Respondent violated the treatment standard for land disposal of hazardous debris set forth at Nevada Administrative Code § 444.8632 and 40 C.F.R. § 268.45 on or about August 4, 5, 18, 19, 23, 26, and 31, 2021, and September 1, 2021.

## **TSCA**

### **Count 2**

#### **(Improper Management of RCRA Hazardous Wastes at the PCB Tank Truck Loading Pad;**

##### **Section III(3) of the Approval)**

45. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
46. Section III(3) of the Approval, as amended on June 22, 2016, provides that “[t]he PCB Tank Truck Loading Pad shall only be used by tanker trucks when they are loading PCB liquid wastes from the PCB tank farm.”
47. During the TSCA Inspection on or about September 15, 2021, EPA inspectors observed Respondent at the Facility using the PCB Tank Truck Loading Pad to ship RCRA hazardous waste liquids off-site.

48. The EPA investigation of the Facility indicated that the Respondent also used the PCB Tank Truck Loading Pad to ship RCRA hazardous waste on or about June 22, 2021, and June 29, 2021.
49. Accordingly, EPA alleges that Respondent violated Section III(3) of the Approval on or about June 22, 2021; June 29, 2021; and September 15, 2021.

**Count 3**

**(Improper Treatment of PCB Wastes;  
Section VI(B)(1)(a) of the Approval)**

50. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
51. Section VI(B)(1)(a) of the Approval provides that liquids with concentration of PCBs less than 50 milligrams per liter (“mg/L”) can be solidified provided that the source of the PCB liquid is less than 50 mg/L.
52. The EPA investigation at the Facility indicated that Respondent solidified oily water with PCB concentrations less than 50 mg/L before disposing of it in Trenches 12 and 13 in November 2020 but failed to document that the source of the oil water had PCB concentrations less than 50 mg/L.
53. Accordingly, EPA alleges that Respondent violated Section VI(B)(1)(a) of the Approval in or about November 2020.

**Count 4**

**(Failure to Comply with the Labeling Requirements for PCB Storage Area;**

**40 C.F.R. § 761.40(a)(10))**

54. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
55. Under 40 C.F.R. § 761.40(a)(10), each storage area used to store PCBs and PCB Items for disposal must be marked with the PCB M<sub>L</sub> label.
56. During the TSCA Inspection on or about September 15, 2021, EPA inspectors observed that the PCB M<sub>L</sub> label on one of the doors leading to the PSPB used to accumulate PCB wastes was in poor condition and illegible.
57. Accordingly, EPA alleges that Respondent violated the PCB marking requirements set forth at 40 C.F.R. § 761.40(a)(10) on or about September 15, 2021.

**Count 5**

**(Failure to Comply with the One-Year Storage Limit for PCB Wastes; 40 C.F.R. § 761.65(a)(1))**

58. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
59. Under 40 C.F.R. § 761.65(a)(1), any PCB waste shall be disposed within one-year from the date it was determined to be PCB waste and the decision was made to dispose of it. This date is the date of removal from service for disposal and the point at which the one-year time frame for disposal begins.
60. During the TSCA Inspection on or about September 15, 2021, EPA documented PCB wastes received by Respondent at the Facility with removed from service for disposal

dates of August 18, 2020, and September 1, 2020, which were not disposed of until October 18, 2021, and October 22, 2021, respectively.

61. Accordingly, EPA alleges that Respondent violated the one-year storage limit for PCB wastes set forth at 40 C.F.R. § 761.65(a)(1) during August – October 2021.

**Count 6**

**(Failure to Comply with the One-Year Exception Report Requirement;**

**40 C.F.R. § 761.219(a)(1))**

62. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
63. Under 40 C.F.R. § 761.219(a)(1), a disposer of PCB waste must submit a One-Year Exception Report to EPA no later than 45 days from the end of the one-year storage for disposal date when the disposer could not dispose of the affected PCBs within one year of the date of removal from service for disposal.
64. The EPA investigation of the Facility indicated that Respondent failed to file One-Year Exception Reports no later than 45 days from the end of the one-year storage for disposal date for PCB wastes that had been removed from service for disposal on August 18, 2020, and September 1, 2020.
65. Accordingly, EPA alleges that Respondent violated the One-Year Exception Report requirements set forth at 40 C.F.R. § 761.219(a)(1) in or about October 2020.

**Count 7**

**(Failure to Comply with the Removed from Service Date Labeling Requirement;**

**40 C.F.R. § 761.65(c)(8))**

66. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
67. Under 40 C.F.R. § 761.65(c)(8), PCB items shall be dated on the item when they are removed from service for disposal.
68. During the TSCA Inspection on or about September 15, 2021, EPA inspectors observed four containers of PCB wastes located throughout the Facility without any labeling indicating when they were removed from service for disposal.
69. Accordingly, EPA alleges that Respondent violated the removed from service date labeling requirement for PCB wastes set forth at 40 C.F.R. § 761.65(c)(8) on or about September 15, 2021.

**Count 8**

**(Failure to Comply with the PCB Storage Requirement; 40 C.F.R. § 761.65(b)(1)(i))**

70. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
71. Under 40 C.F.R. § 761.65(b)(1)(i), facilities that store PCB wastes must have “adequate roof and walls to prevent rainwater from reaching the stored PCBs and PCB Items.”
72. During the TSCA Inspection on or about September 15, 2021, EPA inspectors observed several holes on the roof of the PSPB.

73. The EPA investigation of the Facility indicated that rainwater entered the PSPB as a result of storm events on or about February 24, March 11-13, March 23, April 7-8, April 10, April 20, November 9, and December 28 in 2020, and January 25-29 and March 15 in 2021.
74. Accordingly, EPA alleges that Respondent violated the PCB storage requirement set forth at 40 C.F.R. § 761.65(b)(1)(i) on or about February 24, March 11-13, March 23, April 7-8, April 10, April 20, November 9, and December 28 in 2020, and January 25-29 and March 15 in 2021.

#### E. RESPONDENT'S ADMISSIONS

75. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.F of this CAFO; (iv) waives any right to contest the allegations contained in the CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

#### F. CIVIL ADMINISTRATIVE PENALTY

76. Respondent hereby consents to the assessment of a civil penalty in the amount of \$36,419 for the RCRA claim set forth herein and \$149,010 for the TSCA claims set forth herein for the total penalty of ONE HUNDRED EIGHTY-FIVE THOUSAND FOUR HUNDRED

TWENTY-NINE DOLLARS (\$185,429), as complete settlement of the civil claims alleged in Section I.D of the CAFO.

77. Respondent shall pay the assessed penalty according to the terms of this CAFO within thirty (30) days of the Effective Date of the CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or be paid by one of the other methods stated at: <https://www.epa.gov/financial/makepayment>. If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091. The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send by e-mail a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

Regional Hearing Clerk  
Office of Regional Counsel (ORC-1)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
[R9hearingclerk@epa.gov](mailto:R9hearingclerk@epa.gov)

Lydia Dorrance  
Enforcement and Compliance Assurance Division (ENF-2-2)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
[Dorrance.lydia@epa.gov](mailto:Dorrance.lydia@epa.gov)

Christopher Rollins  
Enforcement and Compliance Assurance Division (ENF-2-2)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street

San Francisco, CA 94105  
[Rollins.christopher@epa.gov](mailto:Rollins.christopher@epa.gov)

Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;



- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
  - c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed (EPA recommends encrypting IRS Form W-9 email correspondence); and
  - d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
    - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this CAFO; and
    - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.
78. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
79. If Respondent fails to pay the civil administrative penalty specified in Paragraph 76 of this CAFO within 30 days after the effective date of this CAFO, then Respondent shall pay to EPA a stipulated penalty as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the

sixteenth to thirtieth day of delay, and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for each day of delay thereafter.

80. In addition, failure to pay the civil administrative penalty may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty within the deadline specified in Paragraph 77. Interest will be assessed at an annual rate that is equal to the rate of current

value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

G. CONDITIONS OF SETTLEMENT AND CERTIFICATION OF COMPLIANCE

81. As a condition of settlement, Respondent consents to and agrees to perform the following tasks in accordance with the time frames indicated below:
  - a. Within TWO HUNDRED SEVENTY (270) days of the Effective Date of this CAFO, Respondent shall submit a petition to the Office of Resource Conservation and Recovery of EPA for either determination of equivalent treatment pursuant to 40 C.F.R. § 268.42(b) or variance from a treatment standard pursuant to 40 C.F.R. § 268.44 regarding the macroencapsulation of RCRA hazardous wastes at the Facility.
  - b. After filing the petition, Respondent shall submit a written quarterly report to EPA, Region IX, regarding the status of the petition until either a final decision is

issued by the Office of Resource Conservation and Recovery of EPA regarding the petition, the petition is withdrawn, or TWO (2) years have elapsed since the filing of the petition, whichever is shorter.

82. Quarterly reports and all other submittals to EPA, Region IX, required under this Section G may be transmitted via email to the addressees identified in Paragraph 77, above, except Christopher Rollins, within the required timeframe.
83. In executing this CAFO, Respondent certifies under penalty of law to EPA that Respondent has taken all steps necessary to return to full compliance with RCRA, 42 U.S.C. §§ 6901 *et seq.*, and TSCA, 15 U.S.C. §§ 2601 *et seq.*, and their implementing regulations other than correcting the conditions alleged in Count 1 of this CAFO.
84. If Respondent is unable to complete any of the compliance tasks in this Section, Respondent shall submit a written request for a modification, including the basis for the request, to EPA, Region IX. Respondent shall submit this request within SEVEN (7) calendar days of identifying a need for a modification. Based on this request, EPA, Region IX, shall in its discretion grant or deny, in full or in part, the request for modification.
85. If Respondent fails to comply with the requirements of Paragraph 81(a) but has not corrected the conditions alleged in Count 1 of this CAFO, then Respondent shall pay to EPA a stipulated penalty in the amount of ONE THOUSAND DOLLARS (\$1,000) for each day the default continues, upon written demand by EPA, Region IX. If Respondent fails to comply with the requirements of Paragraph 81(b), then Respondent shall pay to EPA

a stipulated penalty in the amount of TWO HUNDRED FIFTY DOLLARS (\$250) for each day the default continues, upon written demand by EPA, Region IX.

#### H. RETENTION OF RIGHTS

86. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the CAFO up to the Effective Date of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.D of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the CAFO.
87. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

#### I. ATTORNEYS' FEES AND COSTS

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

#### J. EFFECTIVE DATE


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

K. BINDING EFFECT

90. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
91. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CAFO.

FOR RESPONDENT U.S. ECOLOGY NEVADA, INC.:

6/14/24  
DATE

  
By: Matthew Henry  
Title: Area President  
Address: 101 S. Capitol Boulevard, Suite 1000  
Boise, ID 83702

FOR COMPLAINANT EPA REGION IX:

\_\_\_\_\_  
DATE

**JOEL JONES** Digitally signed by JOEL JONES  
Date: 2024.06.27 16:10:56  
-07'00'

\_\_\_\_\_  
for/Amy C. Miller-Bowen  
Director  
Enforcement and Compliance Assurance Division  
United States Environmental  
Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105

II. FINAL ORDER

EPA Region IX and U.S. Ecology Nevada, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket Nos. RCRA-09-2024-0068; TSCA-09-2024-0069) be entered, and Respondent shall pay a civil administrative penalty in the amount of ONE HUNDRED EIGHTY-FIVE THOUSAND FOUR HUNDRED TWENTY-NINE DOLLARS (\$185,429), and otherwise comply with the terms set forth in the Consent Agreement.

\_\_\_\_\_  
DATE

**BEATRICE  
WONG**

Digitally signed by  
BEATRICE WONG  
Date: 2024.06.28  
07:36:24 -07'00'

\_\_\_\_\_  
**BEATRICE WONG**  
Regional Judicial Officer  
United States Environmental  
Protection Agency, Region IX

## CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of U.S. Ecology Nevada, Inc. (Docket Nos. RCRA-09-2024-0068 and TSCA-09-2024-0069) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

**RESPONDENT:**

Pierre Luc-Juteau  
U.S. Ecology Nevada, Inc.  
11455 S US-95  
Beatty, NV 89003  
[PJuteau@republicservices.com](mailto:PJuteau@republicservices.com)

Scott Gordon, Esq.  
1990 North California Blvd., Suite 20  
Walnut Creek, CA 94596  
[Swgordon@tbsglaw.com](mailto:Swgordon@tbsglaw.com)

**COMPLAINANT:**

David H. Kim  
Assistant Regional Counsel  
U.S. EPA – Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
[Kim.David@epa.gov](mailto:Kim.David@epa.gov)

**PONLY TU** Digitally signed by  
PONLY TU  
Date: 2024.07.01  
13:56:28 -07'00'

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Ponly Tu  
Regional Hearing Clerk  
U.S. EPA – Region IX