



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219**

**In the Matter of:**

Borghy USA, Inc.,

**Respondent.**

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act as  
amended, 42 U.S.C. § 6928(a)

)  
)  
) **Docket No. RCRA 07-2023-0121**  
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)

**CONSENT AGREEMENT AND  
FINAL ORDER**

**I. PRELIMINARY STATEMENT**

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

**II. ALLEGATIONS**

**Jurisdiction**

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

**Parties**

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Borghi USA, Inc., a corporation authorized to operate under the laws of Iowa.

### **Statutory and Regulatory Framework**

5. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

6. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Section 3001 of RCRA, 42 U.S.C. § 6921 to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Part 262.

7. Section 3001 of RCRA, 42 U.S.C. § 6921, requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

8. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

9. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

10. “Solid waste” is defined at 40 C.F.R § 261.2 as any discard material that is not excluded under 40 C.F.R. § 261.4(a).

11. “Hazardous waste” is defined at 40 C.F.R. § 261.3 as a solid waste, as defined in § 261.2, if it exhibits any of the characteristics of hazardous waste identified in subpart C of Part 261.

12. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

13. The regulation at 40 C.F.R. § 260.10 defines “very small quantity generator” as a generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220 lbs) of non-acute hazardous waste; and (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter; and (3) 100 kilograms (220 lbs)

of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter.

14. The regulation at 40 C.F.R. § 260.10 defines “large quantity generator” as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

### **General Factual Background**

15. Respondent is a corporation and authorized to conduct business within the State of Iowa. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

16. Respondent owns and operates a facility is located at 402 W. Division Street, West Burlington, Iowa 52655 (“facility”). Respondent processes steel pipes to produce rigid and flexible pipes for sectors such as automotive, agriculture and industrial, including utilizing a zinc electroplating process. Respondent employs approximately 165 people.

17. On or about October 15, 2019, Respondent notified EPA of its regulated waste activity as a Very Small Quantity Generator (VSQG) of D002 characteristic hazardous waste and obtained the following RCRA ID number: IAR000525451.

18. Respondent was subsequently notified of its change in generator status to a Large Quantity Generator (LQG) on March 29, 2023, of the following hazardous waste: D001, D002, D007, D008, and D010.

19. On or about October 19, 2022, EPA inspectors conducted a RCRA Compliance Evaluation Inspection (hereinafter “the inspection”) of the hazardous waste management practices at Respondent’s facility. The facility was inspected as a VSQG of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

20. At the time of the inspection, the following wastes, among others, were present. These are solid and hazardous wastes as defined at 40 C.F.R. §§ 261.2 and 261.3:

- a. Commercial products containing acetone and toluene used in the maintenance area;
- b. Soiled cloth shop rags used with commercial products in the maintenance area;
- c. Waste vats of process rinse waters in the plating area;
- d. A twenty (20) cubic-yard roll-off container filled with scrap metal located outside the facility;

- e. Fifty-two (52) 275-gallon intermediate bulk containers (totes) containing various volumes of unknown liquids stored in a lot located on the northwest end of the facility; and
  - f. A covered roll-off container of wastewater filter press sludge.
21. At the time of the inspection, the following used oil container was present:
- Absorbent pads used to absorb leaking hydraulic fluid in the plating area.
22. At the time of the inspection, the following universal waste container was present:
- One (1) closed, labeled cardboard box of twelve (12) spent fluorescent lamps stored in the maintenance area.
23. In response to EPA's February 15, 2023, Information Request Letter ("IRL"), Respondent stated that it determined the process rinse water solutions in the wastewater treatment plant intermediate rinse tanks do not exhibit hazardous characteristics.
24. This determination was based on the analysis of samples taken from three tanks within the wastewater treatment plant containing process rinse water. The analytical results were contained in the Eurofins Analytical Report for Job Number 310-250915-2 provided by Respondent.
25. EPA's review of the Analytical Report identified quality assurance and quality control deficiencies with the sampling and analysis of the process rinsewaters.
26. The analytical data is insufficient to support an accurate hazardous waste determination for the process rinse water solutions.
27. The process rinse waters are treated on-site with a coagulation and filter press process, which generates process wastewater.
28. The filter press collects wastewater sludge.
29. In response to EPA's IRL, Respondent stated that hazardous waste determinations in 2006 and 2011 determined that the wastewater sludge did not exhibit any hazardous characteristics.
30. Information provided by Respondent on June 2, 2023, may indicate the presence of chromium, a hazardous constituent, in the wastewater sludge.
31. Information provided by Respondent on June 13, 2023, stated that a subsequent sampling event had not detected chromium in excess of the hazardous waste limit.

32. EPA determined that the information provided by Respondent concerning the wastewater sludge is inconclusive and cannot be relied upon to make an accurate hazardous waste determination.

33. In response to EPA's IRL, Respondent stated that some of the materials in the totes exhibit hazardous characteristics and some materials did not exhibit hazardous characteristics.

34. These determinations were based on an analysis of samples taken from the totes. The Eurofins Analytical Report for Job Number 310-250915-1 contains the analysis of 23 samples taken from the totes.

35. EPA's review of the Analytical Report identified quality assurance and quality control deficiencies with the sampling and analysis of the contents of the totes.

36. The analytical data is insufficient to support an accurate hazardous waste determinations for the contents of the totes.

### **Violations**

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

#### **Count 1**

#### **Failure to Conduct Hazardous Waste Determinations**

38. Complainant hereby incorporates the allegations contained in Paragraphs 15 through 36 above, as if fully set forth herein.

39. Pursuant to 40 C.F.R. § 262.11, a generator of solid waste, as defined in 40 C.F.R. §§ 260.10 and 261.2, must determine if that waste is a hazardous waste using methods prescribed in the regulations.

40. At the time of the inspection, Respondent had not conducted hazardous waste determinations on the following solid waste streams: the process rinse waters, the wastewater sludge, and the contents of the fifty-two (52) 275-gallon totes.

41. Respondent's failure to perform a hazardous waste determination on the above-referenced solid waste streams is a violation of 40 C.F.R. § 262.11.

### **CONSENT AGREEMENT**

42. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits the jurisdictional allegations set forth herein;

- b. neither admits nor denies the specific factual allegations stated herein;
- c. consents to the issuance of any specified compliance or corrective action order;
- d. consents to any conditions specified herein;
- e. consents to any stated Permit Action;
- f. waives any right to contest the allegations set forth herein within this action; and
- g. waives its rights to appeal the Final Order accompanying this Consent Agreement.

43. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to performance of the compliance actions described below.

44. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

45. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

46. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address:  
*francesco.cremonini@borghiusainc.com* with a copy to *jmerrigan@spencerfane.com*.

#### **Effective Date**

47. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

#### **Stipulated Penalties**

48. In addition to the interest and per annum penalties described below, in the event Respondent fails to comply with any of the compliance tasks identified in the Final Order of this CAFO, Respondent shall, for each such failure, be liable for a stipulated penalty in the amount of up to One Thousand Dollars (\$1,000.00) for each day from the first to the fifteenth day, One Thousand Two Hundred Fifty Dollars (\$1,250.00) for each day from the sixteenth to the thirtieth day, and One Thousand Five Hundred Dollars (\$1,500.00) for each day thereafter that the failure continues.

49. All penalties shall begin to accrue on the date that performance is due or a violation occurs and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.

50. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

51. All penalties under this Section shall be made payable by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979078  
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

52. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk  
*R7\_Hearing\_Clerk\_Filings@epa.gov*; and

Antonette Palumbo, Attorney  
*Palumbo.antonette@epa.gov*.

53. The payment of stipulated penalties shall not alter in any way Respondent's obligations to complete the performance required hereunder.

54. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CAFO.

55. Notwithstanding any other provision of this Section, EPA may in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CAFO.

56. The payment of stipulated penalties specified in this CAFO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

### **Effect of Settlement and Reservation of Rights**

57. Completion of the work to be performed under this Consent Agreement and Final Order shall only resolve Respondent's liability as to the alleged violation. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA, including the failure to conduct hazardous waste determinations of additional waste streams, or any other applicable law.

58. Completion of the work to be performed under this Consent Agreement and Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief, civil penalties, or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

59. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Seventy Thousand Seven Hundred Fifty-Two Dollars (\$70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

60. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall not constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

61. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

62. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

### **General Provisions**

63. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and

conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

64. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

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

66. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

67. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

## **FINAL ORDER**

### **A. Work To Be Performed**

68. Respondent shall take the following actions within the time periods specified, according to the terms and conditions specified below.

69. Respondent has notified EPA in writing of the name, address, phone number, email address, and qualifications of its selected Contractors, Environmental Services, Inc. and Ramboll, to carry out all activities set forth herein, and EPA has approved use of these selected Contractors. All work performed under this Final Order shall be under the direction and supervision of environmental professional(s) with expertise in environmental investigations and remediation.

70. Respondent has notified EPA that Matthew Brakeville will serve as its Project Manager. To the greatest extent possible, Respondent's Project Manager shall be readily available during all work to be performed hereunder. Respondent's Project Manager shall have the authority to act on behalf of Respondent.

71. Respondent shall also notify EPA of the name and qualifications of any other Contractors or Subcontractors retained to perform work under this CAFO at least seven (7) days prior to commencement of such work. Contractors or Subcontractors include, but are not limited to, hourly workers, the names and EPA identification Numbers of the transporter(s), recycling facilities and/or TSD facility(ies) that will be used for the transportation, disposal or disposal

facility and/or recycling of process rinsewaters, wastewater sludge, and/or containers of hazardous or non-hazardous waste.

72. EPA retains the right to approve or disapprove the selected Contractors, Subcontractors, or Project Manager retained by Respondent. If EPA disapproves of any Contractors, Subcontractors, or Project Manager, Respondent shall retain a different Contractor, Subcontractor, or Project Manager, and notify EPA of the new Contractor, Subcontractor, or Project Manager's name and qualifications within seven (7) business days following receipt of EPA's disapproval. If EPA still disapproves of the selected Contractor, Subcontractor, or Project Manager, Respondent shall propose a different Contractor, Subcontractor and/or Project Manager until all are approved by EPA.

73. Respondent agrees to allow EPA and IDNR and/or their contractors access to the facility in order to observe work performed pursuant to this CAFO.

74. Respondent shall examine the condition of all containers at the facility storing solid wastes for wear, degradation, leakage, and corrosion and document the condition of each container. For any containers found to be in poor condition or leaking, Respondent shall immediately overpack or transfer the contents of the container to a container of good condition. Respondent shall provide documentation (e.g., written statements, photographs, etc.) to EPA that the wastes are being properly managed in accordance with RCRA with submission of the Complete Container Inventory, as required by Paragraph 76.

75. Within seven (7) days of the effective date of this Order, Respondent shall ensure that any storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments is separated from the other materials or protected from them by means of a dike, berm, wall, or other device, as required by 40 C.F.R. § 262.17(a)(1)(vii)(c). Furthermore, Respondent shall not place incompatible wastes, or incompatible wastes and materials, in the same container; or place hazardous waste in an unwashed container that previously held an incompatible waste or material, in accordance with 40 C.F.R. § 262.17(a)(1)(vii).

76. Within fourteen (14) days of the effective date of this Order, Respondent shall conduct a written Complete Container Inventory with accompanying photographs of all waste containers, drums, totes, vats, and tanks at the facility. This Complete Container Inventory shall categorize and uniquely label each container, tank, vat, and/or tote, and include a notation regarding the size of the container, its contents (if known), and the quantity of the contents therein. The Complete Container Inventory shall also contain a map of the facility that shows the location of each container, tank, vat, and/or tote utilizing the unique label or categorization of such container, tank, vat, and/or tote. Within twenty-one (21) days of the effective date of this Order, Respondent shall provide the Complete Container Inventory to EPA.

77. Respondent shall conduct a Complete Waste Generation Inventory and submit it to EPA on the same date it submits the Waste Disposal Report specified in Paragraph 84. The Complete Waste Generation Inventory shall include all waste generated within the last year from the date of this order, including wastes generated before, during, and after any process changes.

The Complete Waste Generation Inventory shall include a name uniquely identifying the waste; a waste description including physical state, constituent chemicals, and physical attributes at the point of generation; the waste generating process; the waste type; EPA waste codes, if applicable; the amount generated; the frequency of generation, and where it is stored after generation.

*Sampling and Analysis Plan for Previously Generated Solid Wastes*

78. Within fourteen (14) days of the effective date of this Order, Respondent shall submit to EPA for approval, a Sampling and Analysis Plan for the following solid waste streams: the process rinsewater solutions from the quenching process and pressure testing; the contents of all the outside waste storage containers, including the 275-gallon totes on site; the process tanks within the wastewater treatment plant at the Facility; and the roll-off containers of previously generated wastewater sludge. This Sampling and Analysis Plan shall include proper sampling and analysis to determine any hazardous characteristics present, including the presence of metals. Solely limited to samples taken from the totes, the Sampling and Analysis Plan shall include proper sampling and analysis to determine hazardous characteristics present, including the presence of metals, the presence of volatile organic compounds, and the presence of semi-volatile organic compounds. The Sampling and Analysis Plan shall include the following attachments:

- a. Quality Assurance Project Plan (QAPP). The QAPP shall address quality assurance, quality control, and chain of custody procedures in accordance with “EPA Requirements for Quality Assurance Project Plans” (EPA QA/R-5, EPA/240/B-01/003, March 2001) and “EPA Guidance for Quality Assurance Project Plans” (EPA QA/G-5, EPA/240/R-02/009, December 2002), as well as other such applicable guidance identified by EPA. The QAPP shall describe the procedures that will be used for sampling and analysis of the process rinsewater solutions from the quenching process and pressure testing; the contents of all the 275-gallon totes on site; the process tanks within the wastewater treatment plant; and the roll-off containers of previously generated wastewater sludge at Respondent’s facility for the purpose of conducting hazardous waste determinations in accordance with 40 C.F.R. § 262.11. The QAPP shall describe the proposed sampling procedures that will be employed to ensure that samples are collected and analyzed using EPA-approved protocols. In addition, the QAPP shall describe the number and types of samples to be collected, the method(s) of collection and analysis, and criteria for determining sampling locations.
- b. Health and Safety Plan (HASP). The HASP, which shall be implemented during field activities, shall be consistent with applicable Occupational Safety and Health Administration (OSHA) regulations. The HASP will meet the requirements of this paragraph, except to the extent that 1) non-substantive changes to personnel, contractor, or laboratories identified in the original QAPP require updating; and/or 2) Respondent proposes to alter any sampling type, analytical protocol, or other type of work from what was proposed for

the facility, in which case Respondent must submit any such changes for approval.

79. Within forty-five (45) days of EPA's approval of Respondent's Sampling and Analysis Plan, Respondent shall complete all sampling activities necessary for the completion of hazardous waste determinations on all identified solid wastes.

80. Within sixty (60) days of EPA's approval of the Sampling and Analysis Plan, Respondent shall complete the hazardous waste determinations on all identified solid wastes.

81. Within ninety (90) days of EPA's approval of the Sampling and Analysis Plan, Respondent shall provide a Hazardous Waste Inventory Report for EPA's approval that includes the following:

- a. For each solid waste sampled: a name that uniquely identifies the solid waste stream, the hazardous waste determination, all applicable EPA waste codes, the amount of waste present at the facility, the type of containers holding the solid waste, and exact locations of the solid waste at the facility;
- b. A description of how Respondent arrived at the waste determination for each identified solid waste, including process knowledge, labeling, field screening, analytical sampling, etc.;
- c. Any and all data supporting each hazardous waste characterization, including, but not limited to, the sample number for each sample taken and for each hazardous waste determination, any Safety Data Sheet utilized for waste determinations, copies of labels or photographs of labels utilized to assist in waste determination, field logs, field sheets, waste profiles, field screening sampling data, and analytical laboratory data;
- d. The removal plan for each waste stream, including identification of each proposed disposal facility that will receive each waste stream along with each such facility's applicable permits and licenses; and
- e. A certification from Respondent as to the accuracy of the Hazardous Waste Inventory Report. The certification shall read:

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

82. If laboratory turnaround times or the need for additional analysis will create a delay that will not allow Respondent to meet the deadline of Paragraph 81 for some or all waste streams, Respondent shall contact EPA within one (1) business day upon learning of the delay and propose a reasonable extension as needed to account for receipt of all necessary laboratory results, subject to EPA approval.

83. Within seven (7) days after EPA's approval of the Hazardous Waste Inventory Report, including the hazardous waste determinations therein, Respondent shall begin outreach to approved hazardous waste treatment, storage, and disposal facilities to request and schedule pickups of the hazardous wastes identified in the Hazardous Waste Inventory Report. Respondent shall provide biweekly email updates to EPA on the progress of this outreach for each solid waste.

84. Within fourteen (14) days after all solid and/or hazardous wastes have been shipped off-site for disposal from the facility, Respondent shall submit to EPA a Waste Disposal Report. The Waste Disposal Report shall include:

- a. A list of the date and manifest numbers and/or bill of lading for each shipment;
- b. The names and EPA Identification Numbers of the transporter(s) and disposal and/or recycling facilities utilized for each shipment;
- c. A legible copy of all hazardous waste manifests or bills of lading for each shipment;
- d. A summary of the total amount of hazardous waste disposed of;
- e. A detailed summary of the actual cost of Respondent's performance of the actions described in the Waste Disposal Report. These costs should be supported by legible copies of all invoices, bills, and receipts along with documentation that all costs have been paid by Respondent; and
- f. A certification from Respondent as to the accuracy of the Waste Disposal Report. The certification shall be identical to the certification in Paragraph 81(e) above.

85. If Respondent has not received all confirmations of off-site disposal from the facility or all invoices, bills, and receipts documenting that all costs have been paid by Respondent at the time the Waste Disposal Report is due, Respondent shall submit supplemental reports as it receives additional confirmations; however, all supplemental reports shall be submitted to EPA no later than forty-five (45) days after all solid and/or hazardous waste have been shipped off-site for disposal from the facility.

86. Respondent shall notify EPA immediately upon learning that any shipment of solid and/or hazardous waste is being or has been returned to Respondent.

*Sludge Only Sampling and Analysis Plan*

87. Within fourteen (14) days of the effective date of this Order, Respondent shall submit to EPA for approval a Sampling and Analysis Plan that details a plan for proper sampling and analysis of wastewater sludge to determine any hazardous characteristics present, including the presence of metals at the point of generation (Sludge Only SAP). The Sludge Only SAP shall set forth a methodology for testing and analysis at the point of generation each time the waste is generated for a period of thirty (30) generation events. For purposes of the Sludge Only SAP, the “generation event” shall be when the plates of the wastewater treatment plant filter press are pulled apart, and the wastewater sludge is scraped off the plates. The Sludge Only SAP shall include the following attachments:

- a. Quality Assurance Project Plan (QAPP). The QAPP shall address quality assurance, quality control, and chain of custody procedures in accordance with “EPA Requirements for Quality Assurance Project Plans” (EPA QA/R-5, EPA/240/B-01/003, March 2001) and “EPA Guidance for Quality Assurance Project Plans” (EPA QA/G-5, EPA/240/R-02/009, December 2002), as well as other such applicable guidance identified by EPA. The QAPP shall describe the procedures that will be used for sampling and analysis of wastewater sludge at Respondent’s facility for the purpose of conducting hazardous waste determinations in accordance with 40 C.F.R. § 262.11. The QAPP shall describe the proposed sampling procedures that will be employed to ensure that samples are collected and analyzed using EPA-approved protocols. In addition, the QAPP shall describe the number and types of samples to be collected, the method(s) of collection and analysis, and criteria for determining sampling locations.
- b. Health and Safety Plan (HASP). The HASP, which shall be implemented during field activities, shall be consistent with applicable Occupational Safety and Health Administration (OSHA) regulations. The HASP will meet the requirements of this paragraph, except to the extent that 1) non-substantive changes to personnel, contractor, or laboratories identified in the original QAPP require updating; and/or 2) Respondent proposes to alter any sampling type, analytical protocol, or other type of work from what was proposed for the facility, in which case Respondent must submit any such changes for approval.

88. Within ninety (90) days of EPA’s approval of the Sludge Only SAP, Respondent shall complete all generation event sampling activities necessary for the completion of a hazardous waste determination for each generation event of the wastewater sludge.

89. After EPA’s approval of the Sludge Only SAP, and within twenty-one (21) days of completion of each generation event sampling activity for the wastewater sludge, Respondent shall complete a hazardous waste determination for the wastewater sludge.

90. Within thirty (30) days of the thirtieth (30<sup>th</sup>) generation event, Respondent shall provide a Sludge Only Hazardous Waste Inventory Report for EPA's approval that includes the following:

- a. The analytical results for each sample taken during the sampling period covered by the Sludge Only SAP, including the hazardous waste determination, all applicable EPA waste codes, the amount of waste present, the type of container holding the sludge, and exact locations of the sludge at the facility;
- b. Any and all data supporting each hazardous waste characterization, including, but not limited to, the sample number for each sample taken and for each hazardous waste determination, any Safety Data Sheet utilized for waste determinations, copies of labels or photographs of labels utilized to assist in waste determination, field logs, field sheets, waste profiles, field screening sampling data, and analytical laboratory data;
- c. The removal plan for the sludge, including identification of each proposed disposal facility that will receive each waste stream along with each such facility's applicable permits and licenses; and
- d. A certification from Respondent as to the accuracy of the Hazardous Waste Inventory Report. The certification shall read:

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

91. If laboratory turnaround times or the need for additional analysis will create a delay that will not allow Respondent to meet the deadline of Paragraph 90 for some or all of the waste determinations for the sludge, Respondent shall contact EPA within one (1) business day upon learning of the delay and propose a reasonable extension as needed to account for receipt of all necessary laboratory results, subject to EPA approval.

92. Within seven (7) days after EPA's approval of the Sludge Only Hazardous Waste Inventory Report, including the hazardous waste determinations therein, Respondent shall begin outreach to approved hazardous waste treatment, storage, and disposal facilities to request and schedule pickups of the hazardous wastes identified in the Sludge Only Hazardous Waste Inventory Report. Respondent shall provide biweekly email updates to EPA on the progress of this outreach.

93. Within fourteen (14) days after all solid and/or hazardous wastes have been shipped off-site for disposal from the facility, Respondent shall submit to EPA a Sludge Only Waste Disposal Report. The Waste Disposal Report shall include:

- a. A list of the date and manifest numbers and/or bill of lading for each shipment;
- b. The names and EPA Identification Numbers of the transporter(s) and disposal and/or recycling facilities utilized for each shipment;
- c. A legible copy of all hazardous waste manifests or bills of lading for each shipment;
- d. A summary of the total amount of hazardous waste disposed of;
- e. A detailed summary of the actual cost of Respondent's performance of the actions described in the Waste Disposal Report. These costs should be supported by legible copies of all invoices, bills, and receipts along with documentation that all costs have been paid by Respondent; and
- f. A certification from Respondent as to the accuracy of the Waste Disposal Report. The certification shall be identical to the certification in Paragraph 90(d) above.

94. If Respondent has not received all confirmations of off-site disposal from the facility or all invoices, bills, and receipts documenting that all costs have been paid by Respondent at the time the Waste Disposal Report is due, Respondent shall submit supplemental reports as it receives additional confirmations; however, all supplemental reports shall be submitted to EPA no later than forty-five (45) days after all solid and/or hazardous waste have been shipped off-site for disposal from the facility.

95. Respondent shall notify EPA immediately upon learning that any shipment of solid and/or hazardous waste is being or has been returned to Respondent.

#### *General Provisions*

96. Upon review of Respondent's required submissions, EPA may determine that certain additional tasks are necessary to achieve the purpose of this Final Order. In the event such a determination is made, EPA will notify Respondent in writing that Respondent must perform the additional work and will specify the basis and reasons for its determination that the additional work is necessary. Within fourteen (14) days of the receipt of such request, Respondent may request a meeting with EPA to discuss the additional work.

97. All required submissions shall be reviewed by EPA. EPA will review and either approve the required submissions, provide comments, or approve the required submissions with comments. Respondent shall implement each submission as approved or as approved with

comments. If EPA provides comments, Respondent shall resubmit the required submission addressing the comments within thirty (30) days of receipt of the comments, or at a date agreed to by the parties. Failure to implement the approved plan shall constitute a violation of this Final Order.

98. EPA will conduct an inspection of Respondent's facility to verify that all hazardous waste has been removed following submission of the Waste Disposal Report. If EPA finds that the work has not been completed satisfactorily, Respondent shall submit a supplemental plan in accordance with the corresponding paragraph above for the remaining work as described by EPA.

99. Respondent shall submit all documentation generated to comply with the requirements as set forth in the immediately preceding paragraphs to the following address:

If by mail:  
Tiffany DeLong, RCRA Section/Chemical Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219

If by email: *delong.tiffany@epa.gov*

#### **B. Parties Bound**

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

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

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David Cozad  
Director  
Enforcement and Compliance Assurance Division

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Date

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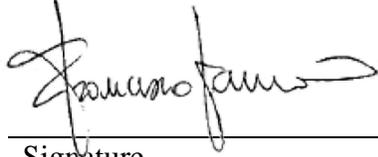
Antonette Palumbo  
Office of Regional Counsel

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Date

RESPONDENT:

BORGHI USA, INC.



\_\_\_\_\_  
Signature

08/25/2023

\_\_\_\_\_  
Date

\_\_\_\_\_  
Francesco Cremonini

Printed Name

\_\_\_\_\_  
Plant Manager

Title

IT IS SO ORDERED. This Final Order shall become effective upon filing.

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Karina Borromeo  
Regional Judicial Officer

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Date

**CERTIFICATE OF SERVICE**  
(For EPA use only.)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Borghi USA, Inc., EPA Docket No. RCRA-07-2023-0121, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Antonette Palumbo  
Office of Regional Counsel  
[palumbo.antonette@epa.gov](mailto:palumbo.antonette@epa.gov)

Tiffany DeLong  
Enforcement and Compliance Assurance Division  
[Delong.tiffany@epa.gov](mailto:Delong.tiffany@epa.gov)

Milady Peters  
Office of Regional Counsel  
[Peters.milady@epa.gov](mailto:Peters.milady@epa.gov)

Copy via Email to Counsel for Respondent, and Respondent:

Jessica Merrigan, Spencer Fane, LLP  
[jmerrigan@spencerfane.com](mailto:jmerrigan@spencerfane.com)

Francesco Cremonini, Borghi USA, Inc.  
[francesco.cremonini@borghiusainc.com](mailto:francesco.cremonini@borghiusainc.com)

Copy via Email to the State of Iowa:

Kayla Lyon, Administrator (e-copy)  
Environmental Services Division  
Iowa Department of Natural Resources  
[Kayla.lyon@dnr.iowa.gov](mailto:Kayla.lyon@dnr.iowa.gov)

Mike Sullivan, Chief (e-copy)  
Contaminated Sites Section  
Iowa Department of Natural Resources  
[Michael.sullivan@dnr.iowa.gov](mailto:Michael.sullivan@dnr.iowa.gov)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Signed