

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY **FILED**
REGION 9

75 Hawthorne Street
San Francisco, California 94105

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U.S. EPA REGION IX
REGIONAL HEARING CLERK

In the Matter of:) Docket No.: CWA-09-2010-0003
)
A Plus Materials Recycling) **SETTLEMENT STATUS REPORT**
)
Respondent)
)
Proceedings Under Section 309(g)(2)(B) of)
the Clean Water Act, as amended,)
33 U.S.C. § 1319(g)(2)(B))

This Settlement Status Report is submitted pursuant to the June 2, 2011 Prehearing Order. As required by the Order, counsel for the parties conferred by telephone on June 17, 2011, and agreed on the steps to be taken to potentially resolve this matter prior to hearing.

In this action, Complainant, EPA Region IX, seeks a penalty from Respondent, A Plus Materials Recycling, for alleged violations of the storm water requirements of the Clean Water Act. Respondent has ceased its business operations and claims that, with its outstanding liabilities, it is unable to pay any penalty in this matter. Settlement discussions have focused almost entirely on this inability-to-pay claim

Prior to the initiation of ADR, EPA requested specific financial information to evaluate this claim. EPA also retained a contractor to conduct the financial analysis. Respondent subsequently provided a few financial documents, but did not provide enough information for EPA to conduct the analysis. EPA responded with a revised request for a more limited set of documents. During the June 17, 2011 conference, Respondent's counsel agreed to provide EPA with the requested documents this week. If EPA receives the documents as agreed, we expect that it will take a couple of weeks for EPA's contractor to evaluate the information and provide an opinion on Respondent's ability to pay.

DATED: June 24, 2011


Brett Moffatt, Assistant Regional Counsel
Attorney for Complainant
U.S. Environmental Protection Agency

CERTIFICATE OF SERVICE

In the Matter of A Plus Materials Recycling

Docket No. CWA-09-2010-0003

I hereby certify that the foregoing **SETTLEMENT STATUS REPORT** was filed with the Regional Hearing Clerk for EPA Region IX, and that a copy was sent in the following manner to the addresses listed below:

By pouch mail to:

Hon. Susan L. Biro, Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mailcode 1900L
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

By regular mail to:

John H. McKinley, Esq.
Brown, Hall, Shore and McKinley, LLP
3031 W. March Lane, Suite 230W
Stockton, CA 95219-6568

Dated June 24, 2011, San Francisco, California

Name: Bryan L. Goodwin
Title: Regional Hearing Clerk