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U.S. EPA REGION IX
REGIONAL HEARING CLERK

1 NANCY J. MARVEL
Regional Counsel

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3 CAROL BUSSEY
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Heidi Vonblum
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U. S. Environmental Protection Agency
5 Region IX
75 Hawthorne Street
6 San Francisco, CA 94105
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9 UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
10 75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105

11

12 In the Matter of:)
) Docket No. EPCRA-09-2007-0031
13 SILVER BELL MINING, L.L.C.)
) CONSENT AGREEMENT
14 Respondent.)
) AND
) FINAL ORDER

15

I. CONSENT AGREEMENT

16 Complainant, the Director of the Communities and Ecosystems
17 Division, United States Environmental Protection Agency, Region
18 IX ("EPA"), and Respondent, Silver Bell Mining, L.L.C.,
19 ("Respondent") agree to settle this matter initiated against
20 Respondent under Title III of the Superfund Amendments and
21 Reauthorization Act, 42 U.S.C. §§ 11001 et seq., also known as
22 the Emergency Planning and Community Right-to-Know Act of 1986
23 ("EPCRA") and consent to the entry of this Consent Agreement and
24 Final Order ("CAFO").

25

A. AUTHORITY

26 1. EPA initiated this civil administrative proceeding for
27 the assessment of a civil penalty under Section 325(c) of EPCRA
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1 by issuing a Complaint and Notice of Opportunity for Hearing
2 ("Complaint") against Respondent on September 28, 2007, in
3 accordance with the Consolidated Rules of Practice Governing the
4 Administrative Assessment of Civil Penalties and the
5 Revocation/Termination or Suspension of Permits at 40 C.F.R. Part
6 22.

7 2. The Complaint alleges that Respondent violated Section
8 313 of EPCRA, 42 U.S.C. § 11023, and the federal regulations
9 promulgated to implement Section 313 at 40 C.F.R Part 372 by
10 failing to submit timely toxic chemical release inventory
11 reporting forms for Cobalt that Respondent otherwise used at its
12 facility located at 25000 West Avra Valley Road, Marana, Arizona
13 for the calendar years 2001-2003.

14 3. EPA and Respondent have agreed to resolve this civil
15 administrative proceeding by executing this CAFO.

16 B. RESPONDENT'S ADMISSIONS

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

1 to the following addresses:

2 Regional Hearing Clerk
3 Office of Regional Counsel (ORC-1)
4 U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

5 Patricia Maravilla
6 Toxics Office (CED-4)
U.S. Environmental Protection Agency, Region IX
7 75 Hawthorne Street
San Francisco, CA 94105

8 8. Payment of the above civil administrative penalty shall
9 not be used by Respondent or any other person as a tax deduction
10 from Respondent's federal, state, or local taxes.

11 9. If Respondent fails to pay the assessed civil
12 administrative penalty specified in Paragraph 6 by the deadline
13 specified in Paragraph 7, then Respondent shall pay to EPA the
14 stipulated penalty of FIFTY-SEVEN THOUSAND, NINE HUNDRED DOLLARS
15 (\$57,900) rather than the assessed penalty, which shall become
16 due and payable immediately upon request. In addition, failure
17 to pay the civil administrative penalty by the deadline specified
18 in Paragraph 7 may lead to any or all of the following actions:

19 a. The debt being referred to a credit reporting agency, a
20 collection agency, or to the Department of Justice for
21 filing of a collection action in the appropriate United
22 States District Court. 40 C.F.R. §§ 13.13, 13.14, and
23 13.33. In any such collection action, the validity, amount,
24 and appropriateness of the assessed penalty and of this CAFO
25 shall not be subject to review.

26 b. The debt being collected by administrative offset
27 (i.e., the withholding of money payable by the United States

1 to, or held by the United States for, a person to satisfy
2 the debt the person owes the Government), which includes,
3 but is not limited to, referral to the Internal Revenue
4 Service for offset against income tax refunds. 40 C.F.R.
5 Part 13, Subparts C and H.

6 c. EPA may (i) suspend or revoke Respondent's licenses or
7 other privileges; or (ii) suspend or disqualify Respondent
8 from doing business with EPA or engaging in programs EPA
9 sponsors or funds. 40 C.F.R. § 13.17.

10 d. In accordance with the Debt Collection Act of 1982 and
11 40 C.F.R. Part 13 interest, penalties charges, and
12 administrative costs will be assessed against the
13 outstanding amount that Respondent owes to EPA for
14 Respondent's failure to pay the civil administrative penalty
15 by the deadline specified in Paragraph 7. Interest will be
16 assessed at an annual rate that is equal to the rate of
17 current value of funds to the United States Treasury (i.e.,
18 the Treasury tax and loan account rate) as prescribed and
19 published by the Secretary of the Treasury in the Federal
20 Register and the Treasury Fiscal Requirements Manual
21 Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will
22 be assessed monthly at a rate of 6% per annum. 40 C.F.R.
23 § 13.11(c). Administrative costs for handling and
24 collecting Respondent's overdue debt will be based on either
25 actual or average cost incurred, and will include both
26 direct and indirect costs. 40 C.F.R. § 13.11(b). In
27 addition, if this matter is referred to another department

1 or agency (e.g., the Department of Justice, the Internal
2 Revenue Service), that department or agency may assess its
3 own administrative costs, in addition to EPA's
4 administrative costs, for handling and collecting
5 Respondent's overdue debt.

6 E. RETENTION OF RIGHTS

7 10. In accordance with 40 C.F.R. § 22.18(c), this CAFO only
8 resolves Respondent's liability for federal civil penalties for
9 the violations and facts specifically alleged in the Complaint.
10 Nothing in this CAFO is intended to or shall be construed to
11 resolve (i) any civil liability for violations of any provision
12 of any federal, state, or local law, statute, regulation, rule,
13 ordinance, or permit not specifically alleged in the Complaint;
14 or (ii) any criminal liability. EPA specifically reserves any
15 and all authorities, rights, and remedies available to it
16 (including, but not limited to, injunctive or other equitable
17 relief or criminal sanctions) to address any violation of this
18 CAFO or any violation not specifically alleged in the Complaint.

19 11. This CAFO does not exempt, relieve, modify, or affect in any
20 way Respondent's duty to comply with all applicable federal,
21 state, and local laws, regulations, rules, ordinances, and
22 permits.

23 F. ATTORNEYS' FEES AND COSTS

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

26 G. EFFECTIVE DATE

27 13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b),
28

1 this CAFO shall be effective on the date that the final order
2 contained in this CAFO, having been approved and issued by either
3 the Regional Judicial Officer or Regional Administrator, is
4 filed.

5 H. BINDING EFFECT

6 14. The undersigned representative of Complainant and the
7 undersigned representative of Respondent each certifies that he
8 or she is fully authorized to enter into the terms and conditions
9 of this CAFO and to bind the party he or she represents to this
10 CAFO.

11 15. The provisions of this CAFO shall apply to and be binding
12 upon Respondent and its officers, directors, employees, agents,
13 trustees, servants, authorized representatives, successors, and
14 assigns.

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1 FOR RESPONDENT, SILVER BELL MINING, L.L.C.

2 11/6/07
3 DATE

John D. Low
4 Name: John D. Low
5 Title: Vice President
6 SILVER BELL MINING, L.L.C.

7 11/7/07
8 DATE

Oscar Gonzalez
9 Name: OSCAR GONZALEZ
10 Title: Treasurer
11 SILVER BELL MINING, L.L.C.

12 FOR COMPLAINANT, EPA REGION IX:

13 11/29/2007
14 DATE

Jeff Scott
15 Name: Jeff Scott
16 Acting Director
17 Communities and Ecosystems Division
18 U.S. ENVIRONMENTAL PROTECTION AGENCY,
19 REGION IX

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27 In the Matter of Silver Bell Mining, L.L.C.,

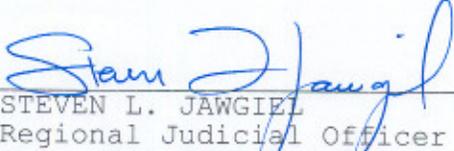
28 Docket No. EPCRA-09-2007-0031

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2 II. FINAL ORDER

3 Complainant and Respondent, having entered into the
4 foregoing Consent Agreement,

5 IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-
6 2007-0031) be entered, and that Respondent shall pay a civil
7 administrative penalty in the amount of TWENTY-EIGHT THOUSAND,
8 NINE HUNDRED AND FIFTY DOLLARS (\$28,950) and comply with the
9 terms and conditions set forth in the Consent Agreement. This
10 CAFO shall become effective upon filing.

11 11/29/07
12 DATE

13 
14 STEVEN L. JAWGIEL
15 Regional Judicial Officer
16 U.S. Environmental Protection
17 Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original fully executed Consent Agreement and Final Order ("CAFO"), Docket Number EPCRA-09-2007-0031, was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that true and correct copies of the CAFO were sent to Respondent at the following address:

John D. Low
Vice President
Silver Bell Mining, L.L.C.
25000 W. Avra Valley Road
Marana, AZ 85653

Oscar Gonzalez
Treasurer
Silver Bell Mining, L.L.C.
25000 W. Avra Valley Road
Marana, AZ 85653

Certified Mail No: 7007 0710 0003 6239 8021

Danielle E Carr

Danielle Carr
Regional Hearing Clerk
Region IX, EPA
Office of Regional Counsel

12-5-07

Date