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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

U.S. EPA. REGION IX
REGIONAL HEARING CLERK

In the matter of:)	U.S. EPA Docket No.
)	RCRA-9-2012- 0011
)	
The University of Arizona Health)	COMPLAINT,
Network)	CONSENT AGREEMENT
EPA ID No.: AZD981694607)	AND
)	FINAL ORDER
)	
)	
Respondent.)	
_____)	

COMPLAINT AND CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA") as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation /Termination or Suspension of Permits, 40 C.F.R. Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is the University of Arizona Health Network (the "Health Network" or "Respondent").
2. The Health Network operates two academic hospitals and their affiliated clinics, as well as a health plan division and the medical practice of physicians for the University of Arizona College of Medicine. Part of the Health Network's operations include the Arizona Cancer Center facility at 3838 North Campbell Ave., Tucson, AZ (the "Facility"). In the course of operations at the Facility, the Health Network generates and stores hazardous wastes in connection with its medical operations. The Facility's EPA ID number is AZD981694607.
3. This Consent Agreement and Final Order ("CAFO"), pursuant to 40 C.F.R. §22.13(b), simultaneously commences and concludes this proceeding, wherein EPA alleges that the Health Network failed to comply with the following requirements of the authorized version of the Arizona Administrative Code ("AAC"): (1) §§ R18-8-262A and R18-8-270 (*see also* 40

C.F.R. §§ 262.34(a) and (c) and 270.1) (failure to mark and label containers of hazardous waste and storage of hazardous waste without a permit); (2) § R18-8-265A (*see also* 40 C.F.R. § 265.16(a)(c) and (d)) (failure to properly train hazardous waste personnel or maintain training records); (3) § R18-8-265A (*see also* 40 C.F.R. § 265.52(d) and (e)) (failure to properly maintain contingency plan); (4) § R18-8-265A (*see also* 40 C.F.R. § 265.171) (failure to maintain hazardous waste containers in good condition); (5) § R18-8-265A (*see also* 40 C.F.R. § 265.176) (failure to locate containers of reactive or ignitable waste at least 15 meters from facility fence-line); (6) § R18-8-273 (*see also* 40 C.F.R. § 273.13(a)(1) and (d)(1)) (failure to properly maintain universal wastes); and (7) § R18-8-273 (*see also* 40 C.F.R. § 273.14(e)) (failure to properly label universal waste). These allegations, if true, each constitute a violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. §6921 *et seq.* and state regulations adopted pursuant to the approved Arizona hazardous waste management program.

B. JURISDICTION

4. On November 20, 1985, the State of Arizona 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. The authorized program is established pursuant to the State Hazardous Waste Management Act, A.R.S. Title 49, and the regulations promulgated thereunder in the Arizona Administrative Code Title 18 (Environmental Quality), Chapter 8 (Department of Environmental Quality Waste Management Rules), Article 2 (Hazardous Wastes). Additionally, revisions to Arizona's hazardous waste management program have been authorized occasionally, over the years, (*see* 56 FR 37290 (Aug. 6, 1991), 57 FR 30905 (July 13, 1992), 57 FR 41699 (Sept. 11, 1992), 57 FR 54932 (Nov. 23, 1992), and 69 FR 12544 (Mar. 17, 2004)). The State of Arizona has been authorized for all of the regulations referenced in this CA/FO.
5. Section 3006 of RCRA, 42 U.S.C. §6926 provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
6. A violation of Arizona's authorized hazardous waste program, found at Arizona Revised Statutes ("ARS") Section 49-901 *et seq.*, and A.A.C. R18-8-260 *et seq.* constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates Arizona's authorized hazardous waste program found at ARS Section 49-901 *et seq.*, and A.A.C. R18-8-260 *et seq.* is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928. (*See* 40 C.F.R. § 272.151 *et seq.* and Appendix A thereto.)
7. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. §6921 *et seq.*

8. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director of the Waste Management Division.
9. Section 3008(a)(2) of RCRA, 42, U.S.C. §6928(a)(2) provides that, when a violation of Subtitle C of RCRA occurs in a state which has been authorized under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator must notify the authorized state prior to issuing an order under Section 3008 of RCRA in that state. EPA notified the State of Arizona prior to issuing this CA/FO, as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
10. Respondent is a "person" as defined in AAC § R18-8-260 (*see also* 40 C.F.R. §260.10).
11. Respondent is the "operator" of a facility as defined in AAC § R18-8-260 (*see also* 40 C.F.R. §260.10).
12. Respondent is the "owner" of a facility as defined in AAC § R18-8-260 (*see also* 40 C.F.R. §260.10).
13. Respondent is a "generator" of hazardous waste as defined in AAC § R18-8-260 (*see also* 40 C.F.R. §260.10).
14. Respondent generates and stores materials that are "wastes" as defined in AAC §§ R18-8-260 and R18-8-261 (*see also* 40 C.F.R. §§260.10 and 261.2).
15. Respondent generates and stores at least 1000 kilograms of hazardous waste per calendar month at the Facility.
16. At the Facility, Respondent generates hazardous waste as defined by ARS Section 49-901, and AAC §§ R18-8-260 and R18-8-261 (*see also* Section 1004(5) of RCRA, 42 U.S.C. §6903(5); 40 C.F.R. §§260.10 and 261.3). This hazardous waste includes, but may not be limited to: ignitable waste (RCRA waste code D001); spent, non-halogenated solvent (*i.e.*, waste methanol) (RCRA waste code F003); epinephrine (RCRA waste code P042); Mitomycin C (RCRA waste code U010); and cyclophosphamide (RCRA waste code U058).
17. On December 1, 2010, EPA conducted a RCRA compliance evaluation inspection ("CEI") at the Facility. Based upon the findings made during the CEIs, and additional information obtained thereafter, EPA determined that Respondent has violated ARS Section 49-901 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.

C. ALLEGED VIOLATIONS

COUNT 1

Storage of Hazardous Waste Without a Permit or Interim Status and Failure to Properly Mark and Label Containers of Hazardous Waste

18. Paragraphs 1 through 17 above are incorporated herein by this reference as if they were set forth here in their entirety.
19. AAC §R18-8-262A (*see also* 40 C.F.R. § 262.34) allows generators of hazardous waste to store hazardous waste on-site for certain specified time periods without a permit or interim status as long as they comply with specified waste management practices, including the proper marking and labeling of hazardous waste containers. Generators who do not comply with the waste management requirements must either be eligible for interim status or obtain a permit in order to store hazardous waste at the facility pursuant to AAC §R18-8-270 (*see also* 40 C.F.R. § 270.1).
20. In order to be eligible to store hazardous waste without a permit or interim status for less than 90 days, generators of hazardous waste must, among other things, ensure that for each container of hazardous waste, the date hazardous waste accumulation began and the words "Hazardous Waste" (and other, specified information) must be clearly marked and visible.
21. A generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste provided, among other things, the operator marks the containers either with the words "hazardous waste" or with other words that identify the contents.
22. At the time of the December 1, 2010 CEI, the inspectors observed a five-gallon container in the Main Laboratory at the Facility that was not labeled.
23. At the time of the December 1, 2010 CEI, the inspectors observed a container or "black box" in the Central Infusion Pod satellite accumulation area at the Facility that was not labeled.
24. At the time of the December 1, 2010 CEI, the inspectors observed two one-liter bottles with a 50% methanol stain solution that had each been stored in the hazardous waste storage area at the Facility for 34 days beyond the 90-day storage limit. Additionally, the inspectors observed a five-gallon container in the hazardous waste storage area that had been stored in the hazardous waste storage area at the Facility for 121 days beyond the 90-day storage limit.
25. At the time of the December 1, 2010 CEI, the inspectors observed that four five-gallon polyethylene containers and a cardboard box with eight small bottles were stored in the hazardous waste storage area at the Facility and did not have accumulation start dates indicated on any label.

26. At the time of the December 1, 2010 CEI, the inspectors observed that two five-gallon polyethylene containers, two one-liter bottles and the cardboard box with the 8 small bottles stored in the hazardous waste storage area at the Facility were not labeled as hazardous waste, nor were any of the bottles.
27. At the time of both the December 1, 2010 CEI, Respondent was not eligible for interim status under RCRA nor was Respondent in possession of a permit to store hazardous waste at the Facility.
28. Therefore, EPA alleges that Respondent has violated AAC §R18-8-270 (*see also* 40 C.F.R. §270.1), and RCRA.

COUNT 2

Failure to Properly Train Hazardous Waste Personnel or Maintain Training Records

29. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.
30. Pursuant to AAC §R18-8-265A (*see also* 40 C.F.R. § 265.16), facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the hazardous waste management requirements and must take part in an annual review of the initial training required. The owner or operator must also maintain specified training documentation and records and the facility for each position at the facility related to hazardous waste management.
31. At the time of the December 1, 2010 CEI, the inspectors noted that personnel at the Facility did not produce a training plan or training records or other evidence of hazardous waste handling training, with the exception of one 8-hour refresher training for one employee. The inspectors also noted that the employee responsible for handling hazardous waste at the Facility had not received annual reviews of the initial training.
32. At the time of the December 1, 2010 CEI, the inspectors noted that personnel at the Facility could not produce any of the training documentation that was required to be maintained by the Facility.
33. Therefore, EPA alleges that the Respondent has violated AAC §R18-8-265A, (*see also* 40 C.F.R. § 265.16), and RCRA.

COUNT 3
Failure to Properly Maintain Contingency Plan

34. Paragraphs 1 through 33 above are incorporated herein by this reference as if they were set forth here in their entirety.
35. Pursuant AAC §R18-8-265A (*see also* 40 C.F.R. §§ 265.52(d) and (e)), hazardous waste facilities must maintain a contingency plan that includes an up to date list of the names, addresses and phone numbers of all persons qualified to act as emergency coordinator at the facility. The plan must also include a list of all emergency equipment at the facility, where the equipment is located and a physical description of the equipment.
36. At the time of the December 1, 2010 CEI, the inspectors observed that the Facility's contingency plan did not designate an emergency coordinator and did not include names, addresses or phone numbers of an emergency coordinator.
37. At the time of the December 1, 2010 CEI, the inspectors observed that the Facility's contingency plan did not include a list of all emergency equipment or the equipment's locations.
38. Therefore, EPA alleges that Respondent violated AAC §R18-8-265A, (*see also* 40 C.F.R. §§ 265.52(d) and (e)), and RCRA.

COUNT 4
Failure to Maintain Hazardous Waste Containers in Good Condition

39. Paragraphs 1 through 38 above are incorporated herein by this reference as if they were set forth here in their entirety.
40. AAC §R18-8-265A, (*see also* 40 C.F.R. § 265.171), requires that, if a container of hazardous waste is not in good condition, or if it begins to leak, the owner or operator transfer the hazardous waste from that container to a container that is in good condition.
41. At the time of the December 1, 2010 CEI, the inspectors observed that one of the five-gallon containers of 50% waste methanol in the hazardous waste storage area at the Facility was leaking.
42. Therefore, EPA alleges that Respondent has violated AAC §R18-8-265A, (*see also* 40 C.F.R. § 265.171), and RCRA.

COUNT 5
**Failure to Locate Containers of Reactive or Ignitable Waste
at Least Fifteen Meters from Facility Fence-line**

43. Paragraphs 1 through 42 above are incorporated herein by this reference as if they were set forth here in their entirety.
44. AAC §R18-8-265A, (*see also* 40 C.F.R. § 265.176), requires that containers holding ignitable or reactive waste be located at least 15 meters from the facility's fence-line.
45. At the time of the December 1, 2010 CEI, the inspectors observed that the hazardous waste storage area, which included ignitable and reactive waste storage, was less than 15 meters from the Facility's fence-line.
46. Therefore, EPA alleges that Respondent has violated AAC §R18-8-265A, (*see also* 40 C.F.R. § 265.176), and RCRA.

COUNT 6
Failure to Properly Maintain Universal Waste

47. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth here in their entirety.
48. AAC §R18-8-273, (*see also* 40 C.F.R. § 273.13(a)(1)), requires small quantity handler of universal waste to contain any universal waste battery that shows evidence of leaking, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a closed container.
49. AAC §R18-8-273, (*see also* 40 C.F.R. § 273.13(d)(1)), requires a small quantity handler of universal waste to contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container.
50. At the time of the December 1, 2010 CEI, the inspectors observed there was one open container labeled "used batteries" in the South Infusion Pod at the Facility and one open container labeled "used batteries" in the maintenance building at the Facility. In addition, the inspectors observed one open container holding used fluorescent lamps in the maintenance building at the Facility.
51. Therefore, EPA alleges that Respondent has violated AAC §R18-8-273, (*see also* 40 C.F.R. § 273.13(a)(1) and (d)(1)), and RCRA.

COUNT 7
Failure to Properly Label Universal Waste

52. Paragraphs 1 through 51 above are incorporated herein by this reference as if they were set forth here in their entirety.
53. AAC §R18-8-273, (*see also* 40 C.F.R. § 273.14(e)), requires that each universal waste lamp or container or package in which universal waste lamps are contained must be labeled or marked clearly with one of the following phrases: “universal waste – lamp(s)”; “waste lamp(s)”; or “used lamp(s).”
54. At the time of the December 1, 2010 CEI, the inspectors observed the container holding used fluorescent lamps was labeled as RCRA hazardous waste instead of as universal waste or waste lamps.
55. Therefore, EPA alleges that Respondent has violated AAC §R18-8-273, (*see also* 40 C.F.R. § 273.13(e)), and RCRA.

D. TERMS OF SETTLEMENT

56. The Health Network consents to the assessment of a civil penalty of FIFTEEN THOUSAND AND THREE HUNDRED DOLLARS (\$15,300.00) in full satisfaction of all claims for civil penalties for the violations alleged in Section C of this CAFO. Such civil penalty amount shall become due and payable within thirty (30) days of the effective date of this CAFO.
57. The aforesaid settlement amount was based upon EPA’s consideration of the statutory factors of the seriousness of the Health Network’s violations and any good faith efforts by the Health Network to comply with all applicable requirements as provided in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), and in accordance with the applicable provisions of the “June 2003 RCRA Civil Penalty Policy.” Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996, *see* 61 Fed. Reg. 69360 (Dec. 31, 1996), 69 Fed. Reg. 7121 (Feb. 13, 2004) and 73 Fed. Reg. 75340 (Dec. 11, 2008), authorizes a civil penalty of up to THIRTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$37,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring after January 12, 2009.

E. ADMISSIONS AND WAIVERS OF RIGHTS

58. Respondent admits and agrees that the EPA Administrator and Region IX Administrator have jurisdiction and authority over the subject matter of the action commenced in this CAFO and over the Health Network pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. §§ 22.4 and 22.37. Further, for the purposes of this proceeding, the Health Network admits to the jurisdictional allegations of facts and law set forth in Section B of this CAFO. The Health Network consents to and agrees not to contest EPA’s jurisdiction and authority to enter into

and to issue this CAFO and to enforce its terms. Further, the Health Network will not contest EPA's jurisdiction and authority to compel compliance with this CAFO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CAFO.

59. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CAFO. Respondent hereby waives any rights it may have to contest the allegations set forth in this CAFO, waives any rights it may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CAFO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. §6928(b) and hereby consents to the issuance of this CAFO without adjudication. In addition, Respondent hereby waives any rights it may have to appeal the Final Order attached to this Consent Agreement and made part of this CAFO.

F. PARTIES BOUND

60. This CAFO shall apply to and be binding upon the Health Network and its agents, successors and assigns and upon all persons acting under or for the Health Network, until such time as the civil penalty required under Section G has been paid. At such time as those matters are concluded, this CAFO shall terminate and constitute full settlement of the violations alleged herein.

61. No change in ownership or any other legal status relating to the Facility will in any way alter the Health Network's obligations and responsibilities under this CAFO.

62. Respondent shall give prior notice of this CAFO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer until the termination of this CAFO.

63. The undersigned representative of the Health Network hereby certifies he or she is fully authorized to enter into this CAFO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

64. Respondent consents to the assessment of and agrees to pay a civil penalty of FIFTEEN THOUSAND ANDTHREE HUNDRED DOLLARS (\$15,300.00) in full settlement of the federal civil penalty claims set forth in this CAFO.

65. Respondent shall submit payment of the FIFTEEN THOUSAND ANDTHREE HUNDRED DOLLARS (\$15,300.00) civil penalty within thirty (30) days of the effective date of this CAFO. Payment shall be made by remitting a certified or cashier's check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Overnight Mail:

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

ATTN Box 979077

St. Louis, MO 63101

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

ABA = 051036706

Transaction Code 22 – checking

Environmental Protection Agency

Account 31006

CTX Format

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov

Enter "sfo1.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

66. 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, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to both the following Region IX addresses:

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

and

Amy Miller (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

67. The payment shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action.

68. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), if payment is not received within thirty (30) days of the date of this CAFO, interest will accrue on the principal amount due at the current rate published by the United States Treasury as described at 40 CFR §13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent thirty (30) day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of the date the penalty is due. Respondent will also be liable for stipulated penalties as set forth below if any payment is not received by this deadline.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

69. In the event Respondent fails to submit a payment to EPA by the time required in this CAFO, Respondent shall pay stipulated penalties up to FIVE HUNDRED DOLLARS (\$500.00) per

day for the first to fifteenth day of delay, up to ONE THOUSAND DOLLARS (\$1,000.00) per day for the sixteenth to thirtieth day of delay, and up to FIFTEEN HUNDRED DOLLARS (\$1,500.00) per day for each day of delay thereafter.

70. 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 or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.

71. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a written demand by EPA for such penalties. Such demand 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 (30) day period. Unless EPA directs payments pursuant to this CAFO to a different address, any stipulated penalty payment shall be made in accordance with one of the options set forth above under paragraph 65.

72. At the time payment in accordance with the foregoing paragraph is made, a copy of the check or other form of payment or evidence thereof shall be sent to each of the following Region IX addresses:

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

and

Amy Miller (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

73. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Health Network's name and address, and the EPA docket number of this action.

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

75. 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.

I. RESERVATION OF RIGHTS

76. EPA expressly reserves all rights and defenses that it may have.
77. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CAFO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CAFO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. §6928(c). This CAFO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States.
78. Compliance by Respondent with the terms of this CAFO shall not relieve the Health Network of its obligations to comply with RCRA or any other applicable local, Arizona, or federal laws and regulations.
79. The entry of this CAFO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted.
80. This CAFO is not intended to be nor shall it be construed as a permit. This CAFO does not relieve Respondent of any obligation to obtain and comply with any local, Arizona, or federal permits.

J. OTHER CLAIMS

81. Nothing in this CAFO shall constitute or be construed as a release from any other claim, 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 the Facility.

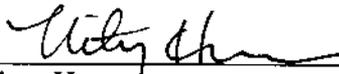
K. MISCELLANEOUS

82. By signing this CAFO, the Health Network -- without admitting or denying them -- certifies that all of the alleged violations set forth in Section C of this CAFO, which are or were capable of correction, have been corrected.

83. This CAFO may be amended or modified only by written agreement executed by both EPA and Respondent.
84. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.
85. The Effective Date of this CAFO is the date the CAFO, once signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

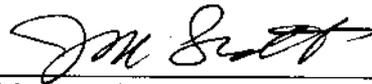
IT IS SO AGREED.

3/29/12
Date



Misty Hansen
Vice President/Chief Financial Officer
The University of Arizona Health Network

6/18/12
Date



Jeff Scott, Director
Waste Management Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. RCRA -09-2072-0011) be entered and that THE UNIVERSITY OF ARIZONA HEALTH NETWORK ("Respondent"), pay a civil penalty of FIFTEEN THOUSAND AND THREE HUNDRED DOLLARS (\$15,300.00) by check payable to "Treasurer of the United States," or another method specified in paragraph 65 of this Consent Agreement and Final Order within the time frame set forth in Section D of this Consent Agreement and Final Order. A notice of the payment and a copy of the check or other form of payment or evidence thereof shall be sent to the EPA Region IX addresses specified in Section G of this Consent Agreement and Final Order within the time frame set forth in Section D.

This Final Order, once signed, shall be effective immediately upon it being filed with the Regional Hearing Clerk.

07/13/12
Date


Steven Jawgiel
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 THE UNIVERSITY OF ARIZONA HEALTH NETWORK. (**Docket #: RCRA-09-2012-0011**) 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:

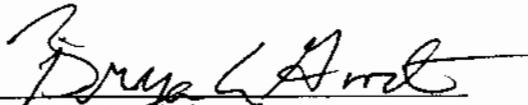
A copy was mailed via CERTIFIED MAIL to:

Misty Hansen
Vice President/Chief Financial Officer
The University of Arizona Health Network
1501 N. Campbell Avenue
Tucson, AZ 85719

CERTIFIED MAIL NUMBER: 7011 1570 0000 6493 9199

And additional copy was hand-delivered to the following U.S. EPA case attorney:

Mimi Newton, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105


Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

7/13/12
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

CERTIFIED MAIL NO. 7011-1570-0000-6493-9199
RETURN RECEIPT REQUESTED

JUN 13 2012

Misty Hansen
Vice President/Chief Financial Officer
The University of Arizona Health Network
1501 N. Campbell Avenue
Tucson, Arizona 85719
EPA Identification Number: AZD981694607

Dear Ms. Hansen:

Enclosed is a copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with the United States Environmental Protection Agency. Also enclosed is the Funds Transfer Deposit Form for payment of the penalty.

Your payment of the penalty identified in the Consent Agreement and Final Order, your completion of all compliance actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions regarding the rules, regulations and statutes which govern the proceedings terminated by the enclosed Consent Agreement and Final Order, please contact Mimi Newton at (415) 972-3941.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Scott".

Jeff Scott, Director
Waste Management Division

Enclosure