

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2024-0016
)	
TECK ALASKA, INCORPORATED,)	CONSENT AGREEMENT
RED DOG MINE,)	
)	
Kotzebue, Alaska)	
)	
Respondent.)	

STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928.

1.2. The State of Alaska has not been authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, to carry out a hazardous waste program in lieu of the Federal program. Pursuant to Section 3008(a) of RCRA, EPA may enforce the federal hazardous waste program in the State of Alaska.

1.3. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Teck Alaska, Incorporated (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

ALLEGATIONS

Statutory and Regulatory Background

3.1. In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, to regulate hazardous waste management. The Hazardous Waste and Solid Waste Amendments of 1984 (HSWA) provide additional authority under RCRA to regulate hazardous wastes. Under Subtitle C of RCRA, RCRA Section 3001 et seq., 42 U.S.C. § 6921 et seq., EPA has the authority to identify and list hazardous wastes. RCRA Subtitle C also authorizes EPA to regulate hazardous waste generators, transporters, exporters, and the owners and operators of hazardous waste treatment, storage, and disposal facilities. EPA has promulgated federal regulations to implement RCRA Subtitle C, which are set forth at 40 C.F.R. Parts 260-271, 273, and 279.

3.2. 40 C.F.R. § 260.10 defines a “person” as 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.

3.3. Pursuant to Section 3001 of RCRA, 42 U.S.C. § 6921, EPA promulgated regulations to define what materials are “solid wastes,” and of these solid wastes, what wastes are “hazardous wastes.” These regulations are set forth in 40 C.F.R. Part 261.

3.4. “Solid waste” is defined at 40 C.F.R. § 261.2 to mean any discarded material that is not otherwise excluded by regulation.

3.5. “Discarded material” is defined at 40 C.F.R. § 261.2(a)(2)(i) to mean any material which is abandoned.

3.6. Pursuant to 40 C.F.R. § 261.2(b) materials are solid waste if they are abandoned by being disposed of; or burned or incinerated; or accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

3.7. Pursuant to 40 C.F.R. § 261.3 a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b); and it exhibits any of the characteristics of hazardous waste in 40 C.F.R. Part 261, Subpart C or is listed in 40 C.F.R. Part 261, Subpart D.

3.8. Pursuant to 40 C.F.R. § 261.22 a solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has the following properties: It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter

using Method 9040C in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW-846.

3.9. Pursuant to 40 C.F.R. § 261.24 a solid waste exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, the extract from a representative sample of the waste contains any of the contaminants listed in Table 1 of 40 C.F.R. § 261.24 at the concentration equal to or greater than the respective value in Table 1.

3.10. “Generator” is defined at 40 C.F.R. § 260.10 to mean any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.

3.11. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste must determine if that waste is a hazardous waste using the method provided therein.

3.12. Pursuant to 40 C.F.R. § 262.11(f), a small or large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by 40 C.F.R. § 261.3. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator’s knowledge of the waste and support the generator's determination, as described at 40 C.F.R. § 262.11(c)-(d). The records must include, but are not limited to, the following types of information: The results of any tests, sampling, waste analyses, or other determinations made in accordance with this section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and

records which explain the knowledge basis for the generator's determination, as described at 40 C.F.R. § 262.11(d)(1).

3.13. "Facility" is defined at 40 C.F.R. § 260.10 to mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

3.14. Section 3005 of RCRA, 42 U.S.C. § 6925, prohibits the treatment, storage or disposal of hazardous waste without a permit or interim status, and the regulation at 40 C.F.R. § 270.1 requires a RCRA permit for the treatment, storage, or disposal of any hazardous waste identified or listed in 40 C.F.R. Part 261.

3.15. The owner and operator of a facility which treats, stores, or disposes of hazardous waste must meet the applicable standards in 40 C.F.R. Part 264.

3.16. In accordance with 40 C.F.R. § 262.10(a)(1)(iii), a large quantity generator of hazardous waste must comply with independent requirements including:

3.16.1. Generator category determination under 40 C.F.R. § 262.13.

3.16.2. Obtain an EPA identification number and comply with the re-notification requirements under 40 C.F.R. § 262.18.

3.16.3. Submit biennial reports under 40 C.F.R. § 262.41.

3.17. A large quantity generator of hazardous waste may accumulate hazardous waste on-site for 90 days without obtaining a permit under 40 C.F.R. § 270.1 only if the generator complies with all of the conditions in 40 C.F.R. § 262.17.

3.18. The conditions in 40 C.F.R. § 262.17 include, inter alia:

3.18.1. While being accumulated on-site, each container or tank must be labeled or marked clearly with the words, “Hazardous Waste.”

3.18.2. If hazardous waste is placed in tanks, the large quantity generator must comply with the applicable requirements for tanks of 40 C.F.R. part 265 Subpart J, except 40 C.F.R. § 265.197(c) (closure and post-closure care) and §265.200 (waste analysis and trial tests), and must comply with the applicable requirements of AA, BB, and CC of 40 C.F.R. part 265.

3.18.3. While being accumulated on-site, each container or tank must be labeled or marked clearly with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 C.F.R. part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 C.F.R. § 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

3.18.4. A large quantity generator accumulating hazardous waste in tanks must use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering.

3.18.5. The large quantity generator must comply with all applicable requirements under 40 C.F.R. part 268.

3.19. Pursuant to 40 C.F.R. § 268.7(a)(1) a generator of hazardous waste must determine if the waste must be treated before it can be land disposed, which is done by determining if the hazardous waste meets the applicable treatment standards in 40 C.F.R. Part 268, Subpart D.

3.20. “Land disposal” is defined at 40 C.F.R. § 268.2(c) to mean placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

3.21. Pursuant to 40 C.F.R. § 268.7(a)(5) if a generator is managing and treating prohibited waste in tanks regulated under 40 C.F.R. § 262.17 to meet applicable land disposal restriction treatment standards found at 40 C.F.R. § 268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards.

3.22. Pursuant to 40 C.F.R. § 268.9(a) the initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under subpart D of 40 C.F.R. Part 268.

3.23. Pursuant to 40 C.F.R. § 268.9(c), in addition to any applicable standards determined from the initial point of generation, no prohibited waste which exhibits a characteristic under 40 C.F.R. part 261, subpart C may be land disposed unless the waste complies with the applicable treatment standards under subpart D of 40 C.F.R. Part 268.

3.24. Pursuant to 40 C.F.R. § 268.3(a), no generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with 40 C.F.R. part 268, subpart D, to circumvent the effective date of a prohibition in 40 C.F.R. part 268, subpart C, to otherwise avoid a prohibition in 40 C.F.R. part 268, subpart C, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

General Allegations

3.25. Respondent is a limited liability corporation doing business in and organized under the laws of the State of Alaska.

3.26. Respondent is a “person” as that term is defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.

3.27. At all times relevant to the allegations set forth herein, Respondent has been the “operator” of the Red Dog Mine (the “Facility”), as that term is defined at 40 C.F.R. § 260.10.

3.28. The Facility is located near Kotzebue, Alaska and consists of a zinc and lead mine with associated Assay Laboratory and support operations.

3.29. At one or more times relevant to this Consent Agreement, Respondent was a large quantity generator of hazardous waste as that term is defined in 40 C.F.R. § 260.10.

3.30. For the purposes of this Consent Agreement, the term “Neutralization Tank” shall mean the tank located under the floor of the Assay Laboratory in which Respondent accumulated and treated certain solid wastes comprised of laboratory testing residuals. At all times relevant to this Consent Agreement the Neutralization Tank met the definition of tank and new tank system in 40 CFR 260.10.

3.31. At all times relevant to this Consent Agreement, the Assay Laboratory contained two laboratory sinks into which Respondent discarded various solid waste laboratory test residuals. The laboratory sinks were piped to floor drains, which were in turn piped to the Neutralization Tank.

Generation and Accumulation of Solid Wastes

3.32. Between at least October 1, 2019, and the present, Respondent generated the following individual or groups of solid wastes in the Assay Laboratory at the Facility:

- 3.32.1. Aqua regia digested samples from atomic absorption of solid samples,
- 3.32.2. Rinse solution from atomic absorption of solid samples,
- 3.32.3. Acidified samples from atomic absorption of aqueous solutions,
- 3.32.4. Rinse solution from atomic absorption of aqueous solutions,
- 3.32.5. Sodium borohydride solution,
- 3.32.6. Samples from selenium testing,
- 3.32.7. Fusion samples from silica analysis,
- 3.32.8. Analyzed samples from analysis of ammonia in water,
- 3.32.9. Analyzed sample solution from analysis of lead in concentrate,
- 3.32.10. Sample filtrate solution from analysis of lead in concentrate,
- 3.32.11. Analyzed sample from automatic zinc titration,
- 3.32.12. Used lecosorb from total organic concentration determination,
- 3.32.13. Sample from operation of the Malvern Mastersizer,
- 3.32.14. Ammonium acetate digested samples from atomic absorption

flame testing, and

3.32.15. Used Anhydrous from Total Organic Carbon Determination.

3.33. At all times relevant to this Consent Agreement, all of the wastes listed in Paragraphs 3.32.1 through 3.32.14 constituted hazardous waste at the point of generation because they exhibited one or more hazardous characteristics under 40 C.F.R. part 261, subpart C, including the corrosivity hazardous characteristic pursuant to 40 C.F.R. § 261.22 and/or the toxicity hazardous characteristic pursuant to 40 C.F.R. § 261.24. In addition, the waste listed in Paragraph 3.32.15 constituted hazardous waste at the point of generation because it exhibited the reactivity hazardous characteristic under 40 C.F.R. § 261.23.

3.34. Between at least October 1, 2019, and January 15, 2024, Respondent discarded the hazardous wastes listed in Paragraph 3.32 in the two laboratory sinks described in Paragraph 3.31.

Laboratory Waste Treatment and Disposal

3.35. Between at least October 1, 2019, and January 15, 2024, Respondent stored and/or treated the hazardous wastes listed in Paragraph 3.32 or mixtures thereof as follows:

3.35.1. Respondent discarded the hazardous wastes listed in Paragraph 3.32 or mixtures thereof in the laboratory sinks,

3.35.2. Mixtures of hazardous wastes disposed in the laboratory sinks drained to the laboratory floor drains,

3.35.3. Hazardous waste in the laboratory floor drains drained to the Neutralization Tank,

3.35.4. Respondent neutralized the pH of the hazardous waste in the Neutralization Tank,

3.35.5. Respondent pumped the neutralized hazardous waste from the Neutralization Tank to Lift Station 6025,

3.35.6. Respondent pumped the contents of Lift Station 6025 to the 6003 Sewage Treatment Plant, and

3.35.7. Respondent disposed of the wastes treated in the 6003 Sewage Treatment Plant in the Tailings Impoundment.

3.36. The mixture of the hazardous wastes listed in Paragraph 3.32 as described in paragraphs 3.35.1 through 3.35.6 constituted individual points of generation of solid waste.

Counts 1 through 18: Failure to Make Hazardous Waste Determinations

3.37. Respondent failed to make hazardous waste determinations at the points of generation for the solid wastes listed in Paragraph 3.32 in accordance with the methods specified at 40 C.F.R. § 262.11(a)-(d).

3.38. Respondent failed to make hazardous waste determinations for solid wastes generated through the mixture and/or treatment of hazardous wastes in the laboratory sink, laboratory floor drain, Neutralization Tank, Lift Station 6025, or the 6003 Sewage Treatment Plant as required by 40 C.F.R. § 262.11(a).

3.39. Therefore, between October 1, 2019 and January 15, 2024, Respondent violated 40 C.F.R. § 262.11 on at least 18 occasions.

Count 19: Failure to Comply with Independent Requirements of a Large Quantity Generator

3.40. On at least one occasion between October 1, 2019, and the present, Respondent failed to accurately determine its generator category as required by 40 C.F.R. § 262.13.

3.41. On at least one occasion between October 1, 2019, and the present, Respondent failed to re-notify EPA as required by 40 C.F.R. § 262.18(d)(2).

3.42. On at least three occasions between October 1, 2019, and the present, Respondent failed to submit biennial reports as required by 40 C.F.R. § 262.41.

3.43. Therefore, on at least one occasion between October 1, 2019, and the present, Respondent violated 40 C.F.R. § 262.10(a)(1)(iii).

Count 20: Storage and Treatment of Hazardous Waste Without a Permit or Interim Status

Storage of Hazardous Waste

3.44. Between at least October 1, 2019, and the present, the Neutralization Tank, laboratory sink, and laboratory floor drains failed to meet the following conditions in 40 C.F.R. § 262.17:

3.44.1. Neither the neutralization tank, nor laboratory floor drains were marked or labeled with the words “Hazardous Waste,” or an indication of the hazards of the tank contents;

3.44.2. The Neutralization Tank did not meet the design and installation requirements for new tank systems or components under 40 C.F.R. § 265.192;

3.44.3. The Neutralization Tank was not provided with secondary containment, including a leak detection system, that met the requirements of 40 C.F.R. § 265.193.

3.44.4. Respondent did not inspect the Neutralization Tank at least once each operating day in accordance with 40 C.F.R. § 265.195.

3.44.5. Respondent did not keep logs, monitoring equipment or other records to demonstrate that hazardous waste in the Neutralization Tank has been emptied within 90 days of first entering the tank per 40 CFR 262.17(a)(5)(ii)(C).

Treatment of Hazardous Waste

3.45. Between at least October 1, 2019, and January 15, 2024, Respondent commingled laboratory residuals with water in the Neutralization Tank, causing the pH to change, which constitutes treatment as that term is defined in 40 C.F.R. § 260.10.

3.46. Between at least October 1, 2019, and the present, Respondent mixed the Neutralization Tank contents with domestic sewage in the 6003 Sewage Treatment Plant, which constitutes treatment as that term is defined in 40 C.F.R. § 260.10.

3.47. Therefore, between at least October 1, 2019, and January 15, 2024, Respondent treated hazardous waste.

Land Disposal Restrictions

3.48. Pursuant to 40 C.F.R. § 262.17(a)(9), compliance with the land disposal restriction requirements in 40 C.F.R. Part 268 is a condition for the exemption from the requirement to obtain a permit pursuant to 40 C.F.R. § 270.1.

3.49. Between at least October 1, 2019, and January 15, 2024, solid and hazardous wastes listed in Paragraph 3.32 were disposed via land disposal at the Facility as the term land disposal is defined in 40 C.F.R. § 268.2(c).

3.50. At no time relevant to the allegations set forth herein were certain solid and hazardous wastes listed in Paragraph 3.32, above, exempt from the requirements of 40 C.F.R. part 268 pursuant to 40 C.F.R. § 268.1(b).

3.51. In accordance with 40 C.F.R. §§ 268.7 and 268.9, Respondent was required to comply with the applicable land disposal restriction requirements with respect to certain solid wastes listed in Paragraph 3.32, including determining waste codes, developing a written waste

analysis plan, and complying with applicable treatment standards under 40 C.F.R. §§ 268.40, 268.45, and/or 268.49.

3.52. In accordance with 40 C.F.R. § 268.3, dilution of either a waste restricted from land disposal or the residual from treatment of a restricted waste may not substitute for adequate treatment to achieve compliance with subpart D of 40 C.F.R. part 268.

3.53. At all times relevant to this Consent Agreement, pursuant to 40 C.F.R. §§ 268.9, 268.40, and 268.48, solid and hazardous wastes listed in Paragraph 3.32 were subject to the applicable treatment standards set forth in 40 C.F.R. §§ 268.40 and 268.48.

3.54. On at least one occasion between October 1, 2019, and January 15, 2024, Respondent achieved one or more of the treatment standards for the associated wastes listed in Paragraph 3.32 and mixtures thereof via mixing such wastes with water and other solid wastes, which constituted impermissible dilution prohibited by 40 C.F.R. § 268.3.

Conclusion

3.55. At no time relevant to this Consent Agreement did Respondent have a permit or interim status to store, treat, or dispose of hazardous waste at the Facility.

3.56. Therefore, between at least October 1, 2019, and January 15, 2024, Respondent stored and treated hazardous waste at the Facility without a permit or interim status in violation of 40 C.F.R. § 270.1.

Enforcement Authority

3.57. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$121,275 per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

TERMS OF SETTLEMENT

- 4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.
- 4.2. Respondent neither admits nor denies the specific factual allegations or legal conclusions contained in this Consent Agreement.
- 4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$429,794 (the “Assessed Penalty”).
- 4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order, and to undertake the actions specified in this Consent Agreement.
- 4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: www.epa.gov/financial/makepayment. Payments made by check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

*Address format for standard delivery
(no delivery confirmation requested):*

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, MO 63197-9000

*Address format for signed receipt confirmation
(FedEx, DHL, UPS, USPS certified, registered,
etc):*

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 by electronic mail at the following addresses:

Regional Hearing Clerk	Kevin Schanilec
U.S. Environmental Protection Agency	U.S. Environmental Protection Agency
Region 10	Region 10
R10_RHC@epa.gov	Schanilec.Kevin@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order attached hereto, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order attached hereto.

4.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

4.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. Under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), failure to take corrective action within the time specified in this Consent Agreement may subject Respondent to additional civil penalties for each day of continued noncompliance.

4.10. The undersigned representative of Respondent certifies that as of the effective date of the Final Order, Respondent has completed hazardous waste determinations in accordance with 40 C.F.R. § 262.11 for the solid wastes listed in Paragraphs 3.32 and 3.38, and generated records regarding the hazardous waste determinations in accordance with 40 C.F.R. § 262.11(f).

4.11. Based on the findings contained in this Consent Agreement, Respondent is also ordered to comply with the following requirements pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a):

4.11.1. Within 60 days of the effective date, notify EPA as a large quantity generator using EPA Form 8700-12.

4.11.2. Within 90 days of the effective date, submit Biennial Reports in accordance with 40 C.F.R. § 262.41 for years 2019, 2021, and 2023.

4.11.3. As expeditiously as practicable, but in no event later than 365 days of the effective date of the Consent Agreement and Final Order, or such other date that the parties agree

to in writing, Respondent must satisfy the closure performance standards of 40 C.F.R. § 262.17(a)(8)(iii) for the Neutralization Tank and associated piping.

4.11.4. In accordance with 40 C.F.R. § 262.17(a)(8)(i)(B), Respondent must notify EPA using form 8700-12 within 90 days after closing the Neutralization Tank and associated piping that it has complied with the closure performance standards in 40 C.F.R. § 262.17(a)(8)(iii). Respondent must provide the notification required to the following recipient and identify the docket number associated with this action:

U.S. Environmental Protection Agency
Region 10, ECAD Land Enforcement Section
r10enforcement@epa.gov

4.12. The Assessed Penalty, including any additional costs incurred under Paragraphs 4.8 and 4.9, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.13. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the compliance actions in Paragraph 4.11, above, is restitution, remediation, or required to come into compliance with the law.

4.14. 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:

4.14.1. 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>;

4.14.2. 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;

4.14.3. 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, and EPA recommends encrypting IRS Form W-9 email correspondence; and

4.14.4. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

4.15. The undersigned representatives of Respondent certify that the representatives are authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.16. Except as described in Paragraphs 4.8 and 4.9, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.17. Solely for the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.18. Solely for the purposes of this proceeding, Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Agreement and the Final Order, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

4.19. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.20. Respondent consents to the issuance of any specified compliance or corrective action order and to any conditions specified in this Consent Agreement.

4.21. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT:

LES YESNIK, General Manager
Red Dog Operations,
Teck Alaska, Incorporated

DATED:

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. RCRA-10-2024-0016
)	
TECK ALASKA, INCORPORATED,)	FINAL ORDER
RED DOG MINE,)	
)	
Kotzebue, Alaska,)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has re delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent’s obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Teck Alaska, Incorporated, Docket No.: RCRA-10-2024-0016**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

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Regional Hearing Clerk
EPA Region 10