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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

U.S. EPA. REGION IX
REGIONAL HEARING CLERK

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|----------------------------|---|---------------------|
| In the matter of |) | U.S. EPA Docket No. |
| |) | RCRA- 9-2011-0003 |
| L&M Optical Disc West, LLC |) | |
| |) | ORDER ON MOTION FOR |
| EPA ID No. CAR000095547 |) | DEFAULT JUDGMENT |
| |) | |
| <u>Respondent.</u> |) | |

INTRODUCTION

This proceeding arises under Section 3008 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6928. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits (Consolidated Rules), 40 CFR §§ 22.1-22.32.

PROCEDURAL HISTORY

On January 25, 2011, the United States Environmental Protection Agency (EPA or Complainant) filed a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing against L&M Optical Disc West, LLC (Respondent). In sum, Complainant alleged five RCRA violations: (1) Count I - Failure to Conduct Weekly Inspections, in violation of 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.174¹ [40 CFR §§ 262.34(a)(i) and 265.174]; (2) Count II - Failure to Comply with Training Requirements, in violation of 22 C.C.R. §§ 66262.34(a)(4), 66265.16(c), and 66265.16(d)(1)-(4) [see also 40 C.F.R. §§ 262.34(a)(4), 265.16(c), and 265.16(d)(1)-(4)]; (3) Count III – Failure to Have a Complete Contingency Plan, in violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.51(a) [see also 40 C.F.R. §§ 262.34(a)(4) and 265.51(a)]; (4) Count IV – Failure to File a Biennial Report, in violation of 22 C.C.R. §§ 66262.41(b) [see also 40 C.F.R. §§ 262.41(a)]; and (5) Count V - Failure to Mark or Label

¹ All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the current California Code of Regulations. Complainant is enforcing California hazardous waste management program requirements as approved and authorized by the United States on August 1, 1992 (see 57 FR 32726, July 23, 1992) and September 26, 2001 (66 FR 49118, September 26, 2001). Corresponding Federal citations are provided in brackets.

Containers of Hazardous Waste, in violation of 22 C.C.R. § 66262.34(a)(3), (e)(1)(E) and (f) [40 C.F.R. § 262.34(a)(2) and (3) and (c)(1)(i)].

40 CFR § 22.15(a) required Respondent to file an answer to the Complaint within thirty (30) days after service of the Complaint. Complainant completed service of the Complaint on January 28, 2011. However, Respondent failed to answer the Complaint.

On March 21, 2011, Complainant filed a Motion for Default pursuant to 40 CFR § 22.17, seeking a finding of default in this case and proposing a penalty of \$26,500. Respondent did not oppose Complainant's Motion for Default.

On April 30, 2012, the Regional Judicial Officer returned Complainant's Motion, requesting Complainant submit a renewed motion for default order with any updates Complainant deems necessary.

On May 16, 2012, Complainant submitted a renewed Motion for Default.²

On May 30, 2012, the Regional Judicial Officer received a letter dated May 18, 2012 from Rosa Gutierrez. Ms. Gutierrez did not provide any contact information in her letter and she did not identify her relationship to Respondent. Ms. Gutierrez merely stated, "In response to the letter dated May 16, 2012, L&M Optical Disc West is closed. It has ceased all operations as of January 31, 2011."

FINDINGS OF FACT

Pursuant to 40 CFR § 22.17 and based upon the entire record in this matter, I make the following factual findings:

1. Respondent, L&M Optical Disc West LLC ("L&M" or "Respondent") operates a facility for manufacturing of DVDs located at 24865 Avenue Rockefeller, Valencia, California 91355 (the "Facility").
2. Respondent is a person" as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10]; and an operator of a facility as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].

² Complainant served its Renewed Motion for Default Order, via UPS Overnight Mail, on May 16, 2012. 40 C.F.R. § 22.7(c) provides that the time allowed for responsive filings is extended by five calendar days where a document is served by first class mail or by commercial delivery service. The five additional days is not available where a document is served by overnight delivery, as was this Motion for Renewed Default Order.

66261.3 [see also RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include, but are not limited to, D001 (ignitable), D002 (corrosive), (D011)(silver) and F003 (non-halogenated solvents).

4. Complainant issued a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing (Complaint) against Respondent on January 25, 2011.

5. Pursuant to 40 CFR § 22.15(a), Respondent was required to file an answer to the Complaint within thirty (30) days after service of the Complaint. Complainant completed service of the Complaint on January 28, 2011.

6. To date, neither Complainant nor the Regional Judicial Clerk has received Respondent's answer to the Complaint.

7. On March 21, 2011, Complainant filed a Motion for Default Order, seeking a finding of default in this case and proposing a penalty of \$26,500. The Motion included an analysis of each count and a proposed penalty, applying the 2003 RCRA Civil Penalty Policy to the counts.

8. To date, neither Complainant nor the Regional Judicial Clerk has received a response to the Motion for Default.

DISCUSSION

The Consolidated Rules, 40 CFR § 22.17(a), applies to motions for default, and provide in pertinent part:

(a) Default. A party may be found to be in default; after motion, upon failure to file a timely answer to the complaint;...Default by respondent constitutes, for purposes of the proceeding only, an admission of all facts alleged in the complaint and a waiver of all facts alleged in the complaint and a waiver of respondent's right to contest such factual allegations.

(c) Default Order. When the Presiding Officer finds that default has occurred, he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued.

The Consolidated Rules at 40 CFR § 22.17(a) require that if a default has occurred, the Presiding Officer shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued. Respondent has made no showing that good cause exists to defeat Complainant's Motion for Default Order.

The Motion included an analysis of each count and a proposed penalty, applying the 2003 RCRA Civil Penalty Policy to the counts.

The Consolidated Rules at 40 CFR § 22.27(b) applies to the assessment of a civil penalty:

If the Presiding Officer determines that a violation has occurred and the complaint seeks a civil penalty, the Presiding Officer shall determine the amount of the recommended penalty based on the evidence in the record and in accordance with any penalty criteria set forth in the Act. The Presiding Officer shall consider any civil penalty guidelines issued under the Act. ...If the respondent has defaulted, the Presiding Officer shall not assess a penalty greater than that proposed by the complainant in the complaint, the prehearing information exchange or the motion for default, whichever is less.

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as amended by the Debt Collections Improvement Act of 1996, 40 CFR Part 19, authorizes a civil penalty of up to THIRTY-TWO THOUSAND, FIVE HUNDRED DOLLARS (\$32,500) for violations that occur after March 15, 2004, 69 Fed. Reg. 7121 (Feb. 13, 2004), and authorizes a civil penalty of up to THIRTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$37,500) for violations that occur after Jan. 11, 2009. 73 Fed. Reg. 75340 (Dec. 11, 2008). Complainant requests that the Administrator assess a civil penalty against Respondent of up to \$32,500 per day, as appropriate, for each day during which a violation cited in the above outlined Counts continued up to (and including) January 11, 2009, and up to \$37,500 for each day during which a violation continued after January 11, 2009.

The penalty calculations system established through EPA's June 2003 RCRA Civil Penalty Policy ("Penalty Policy") is based upon Section 3008 of RCRA, 42 U.S.C. § 6928. Under this section, the seriousness of the violation and any good faith efforts to comply with applicable requirements are to be considered in assessing a penalty. The Penalty Policy consists of: (1) determining a gravity-based penalty for a particular violation from a penalty assessment matrix, (2) adding a "multi-day" component, as appropriate, to account for a violation's duration, (3) adjusting the sum of the gravity-based and multi-day components, up or down, for case specific circumstances, and (4) adding to this amount the appropriate economic benefit gained through non-compliance. The Environmental Appeals Board (EAB) has emphasized that the agency's penalty policies should be applied wherever possible because such policies "assure that statutory factors are taken into account and are designed to assure that penalties are assessed in a fair and consistent manner." *M.A. Bruder & Sons, Inc.*, 10 E.A.D. 598, 613 (EAB 2002).

The gravity-based component of the Penalty Policy is determined by considering two factors: (1) the potential for harm, and (2) the extent of deviation from the statutory or regulatory

requirement. See Penalty Policy, p. 12. The potential for harm and the extent of deviation components may be characterized as “major”, “moderate”, or “minor”, according to standards set forth by the Penalty Policy. *Id.* at 15-18. The gravity-based component is selected from a pecuniary range for the appropriate cell. *Id.* at 18. EPA revised the penalty matrices set forth in the 2003 Penalty Policy for violations that occur after March 15, 2004 and after January 12, 2009. The Penalty Policy provides that the selection of the exact penalty amount within the cell is left to the discretion of enforcement personnel, so they may adapt the penalty to the gravity of the violation and its surrounding circumstances. *Id.* at 19.

The Penalty Policy also provides a multi-day calculation for continuing violations. *Id.*, p. 23. After the gravity-based penalty is calculated, including any multi-day component, enforcement personnel may adjust the penalty upward or downward to reflect the particular circumstances surrounding the violation, such as good faith efforts to comply, degree of willfulness or negligence, history of noncompliance, ability to pay, other unique factors, and supplemental environmental projects. *Id.*, p. 3.

The Penalty Policy also mandates the recapture of any significant economic benefit of noncompliance that accrues to a violator. The economic benefit component should be calculated and added to the gravity-based penalty component when a violation results in significant economic benefit to the violator. *Id.*, p. 28. In the interest of simplifying and expediting an enforcement action, enforcement personnel may forego calculating the economic benefit component where it appears that the amount of the component is likely to be less than the amount specified by the Penalty Policy for all violations alleged in the complaint. *Id.*, p. 28. Likewise, it is not necessary to calculate an economic benefit for a violation if the economic benefit is estimated to be below \$2,000. *Id.*

Section 22.17(c) of the Consolidated rules, 40 CFR § 22.17(c), provides that when a respondent is found to be in default, “The relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act.” When reaching a penalty determination, Section 22.27(b) of the Consolidated Rules states that the Presiding Officer shall consider any evidence in the record and any civil penalty guidelines issued under the Act. The Presiding Officer shall explain in detail how the assessed penalty corresponds to any penalty criteria set forth in the Act. As stated above, Section 22.27(b) of the Consolidated Rules prohibits the Presiding Officer from assessing a penalty greater than that proposed in the complaint, the prehearing information exchange or the motion for default, whichever is less.

Pursuant to 40 CFR § 22.17(a), a default by a respondent constitutes an admission of all facts alleged in the Complaint. See also 40 CFR § 22.15(d) (respondent’s failure to admit, deny or explain any material factual allegation contained in the Complaint constitutes an admission of the allegation); *In the Matter of K Industries, Inc.*, Docket No. RCRA-06-2003-0915, 2005 RJO Lexis 109 (March 2, 2005); *In re Matter of Aero Design, Inc.*, Docket No. RCRA-04-2002-4006,

2003 EPA RJO Lexis 12 (April 1, 2003).

Count I – Failure to Conduct Weekly Inspections

During a January 12, 2010 inspection, facility representative, George Lin, informed the inspectors that the facility does not have a system set up to inspect the hazardous waste storage area on a weekly basis and the facility had not been conducting weekly inspections of its hazardous waste storage areas. 22 C.C.R. § 66265.174 requires that the facility conduct weekly inspections of its hazardous waste storage areas (*see also* 40 C.F.R. § 265.174).

1) Gravity-Based Penalty

A) **Potential for Harm**: Pursuant to the Penalty Policy, a “Minor” potential for harm to the environment and the regulatory program means that the violation poses or may pose a relatively low risk of exposure of humans or other environmental receptors to hazardous waste or constituents; and/or the actions may have a small adverse effect on statutory or regulatory purposes or procedures for implementing the RCRA program. *See* Penalty Policy at 15. In the instant case, Complainant claims that Respondent’s failure to conduct weekly inspections, in violation of 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174] should be characterized as “Minor” under the Penalty Policy. As the Presiding Officer in this action, I agree that the potential harm resulting from this violation is properly characterized as “Minor” on the record before me.

B) **Extent of Deviation**: The Penalty Policy defines a “Major” extent of deviation as a situation wherein the violator deviates from requirements of the regulation or statute to such an extent that most, or important aspects, of the requirements are not met, resulting in substantial noncompliance. *See* Penalty Policy at 15. Respondent’s failure to have a system set up to inspect weekly storage area on a weekly basis and the facility had not been conducting weekly inspections of its hazardous waste storage areas constituted a “Major” deviation from the requirement to conduct weekly inspections.

The Penalty Policy provides that after classifying the potential for harm and the extent of deviation, EPA enforcement personnel have the discretion to select the exact amount within a particular cell of the gravity penalty matrix so they may adapt the penalty amount of the gravity of the violation and its surrounding circumstances. *See* Penalty Policy at 19. Enforcement personnel should analyze and rely on case-specific factors in selecting a dollar figure from this range. Such factors include the seriousness of the violation, the environmental sensitivity of the areas potentially threatened by the violation, the size and sophistication of the violator, the number of days of violation, and other relevant matters.

The matrix value in the Penalty Policy for violations that are minor/major is \$2130 to \$4250. Complainant’s selection of \$3190, which represents the middle of the Minor

Potential/Major Deviation matrix cell, is consistent with the record of the proceeding and with RCRA.

2) Multi-Day Penalty Calculation

This violation continued for at least one day, January 12, 2010. However, Complainant is not seeking a penalty for multi-days. Accordingly, the penalty for this count is \$3,190.

Count II – Failure to Comply with Training Requirement

At the time of the January 12, 2010 CEI, the facility had an employee, Travis Medrano, who was responsible for managing the hazardous waste on the premises. According to the facility representative, Mr. Medrano had not received any initial or refresher training on proper management procedures for hazardous waste. At the time of the January 12, 2010 CEI, the training records did not include the job title and position description for Mr. Medrano's position.

22 C.C.R. § 66265.16(c) requires that facility personnel must successfully complete training, including annual refresher training, to perform their duties in a way that ensures the facility's compliance with the requirements of applicable hazardous waste law. 22 C.C.R. § 66265.16(d)(1-4) requires that the owner or operator of a facility maintain training records at the facility [see also 40 C.F.R. § 265.16(c) and 40 C.F.R. § 265.16(d)(1-4)]. The records are required to include the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job. 22 C.C.R. § 66265.16(d)(1) [see also 40 C.F.R. § 265.16(d)(1)].

Respondent failed to comply with the requirements for training employees with the requirements of applicable hazardous waste law or maintain training records at the facility.

1) Gravity-Based Penalty

A) **Potential for Harm**: A "Moderate" potential for harm to the environment and the regulatory program means that the violation poses or may pose a significant risk of exposure of humans or other environmental receptors to hazardous waste or constituents or the actions have or may have a significant adverse effect on statutory or regulatory purposes or procedures for implementing the RCRA program. Complainant accurately concluded that this violation posed a "Moderate" potential for harm.

B) **Extent of Deviation**: Respondent's failure to comply with the requirements for training employees with the requirements of applicable hazardous waste law or maintain training records at the facility supports categorizing this violation as a "Moderate" deviation from the regulatory requirement, which means that the violator significantly deviates from requirements of the regulation or statute but some of the requirements are implemented as intended.

The matrix value in the Penalty Policy for violations that are Moderate Potential/Moderate Deviation is \$7090 to \$11,330. Complainant's selection of \$9210, which represents the middle of the Moderate Potential/Moderate Deviation matrix cell, is consistent with the record of the proceeding and with RCRA.

2) Multi-Day Penalty Calculation

This violation continued for at least one day, January 12, 2010. However, Complainant is not seeking a penalty for multi-days. Accordingly, the penalty for this count is \$9120.

Count III – Failure to Have a Complete Contingency Plan

At the time of the January 12, 2010 CEI, Respondent did not have a complete contingency plan. While the facility contingency plan included important emergency information, including names of emergency coordinators and evacuation routes, it lacked required information, including the description and location of emergency equipment and local emergency telephone numbers.

22 C.C.R. § 66265.51(a) requires that each owner or operator must have a contingency plan for his or her facility, which includes the description and location of emergency equipment and local emergency telephone numbers [*see also* 40 C.F.R. § 265.51(a)].

1) Gravity-Based Penalty

A) **Potential for Harm:** Pursuant to the Penalty Policy, a “Minor” potential for harm to the environment and the regulatory program means that the violation poses or may pose a relatively low risk of exposure of humans or other environmental receptors to hazardous waste or constituents; and/or the actions may have a small adverse effect on statutory or regulatory purposes or procedures for implementing the RCRA program. *See* Penalty Policy at 15. In the instant case, Complainant claims that Respondent's failure to provide a complete contingency plan should be characterized as “Minor” under the Penalty Policy. As the Presiding Officer in this action, I agree that the potential harm resulting from this violation is properly characterized as “Minor” on the record before me.

B) **Extent of Deviation:** Respondent's failure to comply with the requirements for providing a complete contingency plan supports categorizing this violation as a “Moderate” deviation from the regulatory requirement, which means that the violator significantly deviates from requirements of the regulation or statute but some of the requirements are implemented as intended.

The matrix value in the Penalty Policy for violations that are Minor Potential/Moderate Deviation is \$710 to \$2130. Complainant's selection of \$1420, which represents the middle of

the Minor Potential/Moderate Deviation matrix cell, is consistent with the record of the proceeding and with RCRA.

2) Multi-Day Penalty Calculation

This violation continued for at least one day, January 12, 2010. However, Complainant is not seeking a multi-day penalty so the penalty for Count III is \$1420.

Count IV - Failure to File Biennial Report

At the time of the January 12, 2010 CEI, Respondent had not filed a biennial report for 2007. 22 C.C.R. § 66262.41(a) requires that each owner or operator file a biennial report for the hazardous waste generated the prior year [see also 40 C.F.R. § 26.2.41(a)].

1) Gravity-Based Penalty

A) **Potential for Harm**: A “Moderate” potential for harm to the environment and the regulatory program means that the violation poses or may pose a significant risk of exposure of humans or other environmental receptors to hazardous waste or constituents or the actions have or may have a significant adverse effect on statutory or regulatory purposes or procedures for implementing the RCRA program. Complainant accurately concluded that this violation posed a “Moderate” potential for harm.

B) **Extent of Deviation**: The Penalty Policy defines a “Major” extent of deviation as a situation wherein the violator deviates from requirements of the regulation or statute to such an extent that most, or important aspects, of the requirements are not met, resulting in substantial noncompliance. See Penalty Policy at 15. Respondent’s complete failure to file a biennial report constituted a “Major” deviation from the requirement to file such reports.

Complainant’s selection of \$12,250, which represents the middle of the Moderate Potential/Major Deviation matrix cell, is consistent with the record of the proceeding and with RCRA.

2) Multi-Day Penalty Calculation

This violation continued for at least one day, March 1, 2008. Complainant is not seeking multi-day penalties so the penalty is \$12,250

Count V - Failure to Mark or Label Containers of Hazardous Waste

On January 12, 2010, the EPA Inspector observed: (1) one 55 gallon drum of silver, sodium sulphite (D011) did not have the accumulation start date, list the physical state of the

waste or the hazardous properties of the waste; (2) one 55 gallon drum of D001 and F003 did not have an accumulation start date; and (3) one 55 gallon drum of D001 hazardous waste did not have an accumulation start date.

22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit. At the time of the inspection, Respondent did not have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].

22 C.C.R. § 66262.34(a) provides that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain conditions, including compliance with 22 C.C.R. § 66262.34(f), which requires that generators label containers with the words “hazardous waste” and with the date accumulation of the waste begins, and the label must be visible for inspection [*see also* 40 C.F.R. § 262.34(a)]. Under California’s authorized program, generators are also required to label their waste with the composition and a statement that calls attention to the physical properties of the waste. 22 C.C.R. § 66262.34(f)(3) [*see also* 40 C.F.R. § 262.34(a)]. Generators who fail to comply with any of these conditions, including storage of hazardous waste over 90 days are subject to the permitting requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

Respondent’s failure to meet the requirements set forth or referenced by 22 C.C.R. § 66262.34 subjected it to the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. §§ 262.34 and 270.1]. Respondent failed to properly mark or label hazardous waste as provided in 22 C.C.R. § 66262.34(a), a violation of 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].

1) Gravity-Based Penalty

A) **Potential for Harm**: Pursuant to the Penalty Policy, a “Minor” potential for harm to the environment and the regulatory program means that the violation poses or may pose a relatively low risk of exposure of humans or other environmental receptors to hazardous waste or constituents; and/or the actions may have a small adverse effect on statutory or regulatory purposes or procedures for implementing the RCRA program. *See* Penalty Policy at 15. In the instant case, Complainant claims that Respondent’s failure to properly mark the hazardous waste containers should be characterized as “Minor” under the Penalty Policy. As the Presiding Officer in this action, I agree that the potential harm resulting from this violation is properly characterized as “Minor” on the record before me.

B) **Extent of Deviation**: A “Minor” deviation from the regulatory requirement means that the violator deviates somewhat from the regulatory or statutory requirements but most (or all important aspects) of the requirements are met. Respondent’s failure to comply with the marking and labeling requirements constituted a “Minor” deviation.

The matrix value in the Penalty Policy for violations that are Minor Potential/Minor Deviation is \$150 to \$750. Complainant's selection of \$430, which represents the middle of the Minor Potential/Minor Deviation matrix cell, is consistent with the record of the proceeding and with RCRA.

2) Multi-Day Penalty Calculation

This violation continued for at least one day, January 12, 2010. Complainant is not seeking multi-day penalties so the penalty is \$430.

PENALTY MODIFICATION

The Penalty Policy provides for downward adjustments to the proposed penalty for a violator's good faith efforts to comply, limited ability to pay, performance of environmental projects, or other unique factors. *See* Penalty Policy at 34-41. Complainant did not propose any adjustments to the proposed penalty because none were supported by the circumstances of the violations. Respondent failed to submit any evidence that would support any downward adjustment. Therefore, Complainant's position is consistent with the record and RCRA.

CONCLUSION

After considering the record and the Penalty Policy, I assess a penalty in the amount of \$26,500.00.

ORDER

RESPONDENT IS HEREBY ORDERED to pay a civil penalty in the amount of TWENTY-SIX THOUSAND FIVE HUNDRED DOLLARS (\$26,500). This penalty shall become due and payable, without further proceedings, thirty (30) days after this order becomes final. This Order shall become final within forty-five (45) days after its service upon the parties without further proceedings, unless (1) a party appeals the Initial Decision to the Environmental Appeals Board, (2) a party moves to set aside the order, or (3) the Environmental Appeals Board elects to review this Initial Decision on its own initiative. *See* 40 CFR § 22.27(c). Procedures for appealing this Initial Decision are listed in the Consolidated Rules at 40 CFR § 22.30.

Payment shall be made by forwarding a money order, cashier's check, or certified check, in the amount of \$26,500.00 payable to Treasurer of the United States of America to:

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

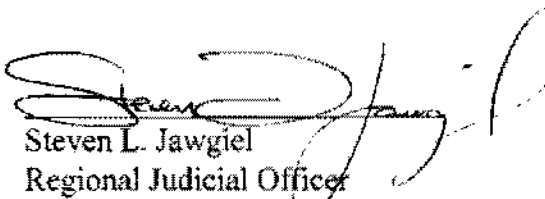
All payments shall indicate the name of the facility, any EPA identification number of the facility, Respondent's name and address, and the EPA docket number for this action. At the time payment is made, Respondent shall send a copy of the payment transmittal to:

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

If the civil penalty is not paid within the prescribed time period, interest will be assessed pursuant to Section 11 of the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3717, based on the present value of funds owed to the United States Treasury at the time the Initial Order becomes final, and such rate will remain in effect until full payment is received. A six percent (6%) per annum late payment penalty will also be applied on any principle amount not paid within ninety (90) days of the due date.

IT IS SO ORDERED

Date: June 1, 2012


Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Order on Motion for Default Judgment against L&M OPTICAL DISC WEST, LLC (Docket #: **RCRA-09-2011-0003**) 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:

George Lin
Vice President
L&M Optical Disc West, LLC
24865 Avenue Rockefeller
Valencia, CA 91355

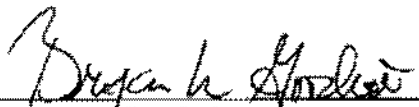
CERTIFIED MAIL NUMBER: 7010 2780 0000 8388 7795

David Lin (Agent for Service of Process)
24865 Avenue Rockefeller
Valencia, CA 91355

CERTIFIED MAIL NUMBER: 7010 2780 0000 8388 7801

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

Michael Hingerty
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

6/1/12
Date