



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2011 JAN 19 AM 8:15

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2010-0037

IN THE MATTER OF:

HOLCIM (US) INC.

6055 East Croydon Road

Morgan, UT 84050-9951


RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Fina Order.

SO ORDERED THIS 19th DAY OF January, 2011.



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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HEARING CLERK

IN THE MATTER OF:)
)
Holcim (US) Inc.)
6055 East Croydon Road)
Morgan, Utah 84050-9951)
)
Respondent.)
)
Proceeding under section 309(g) of the)
Clean Water Act, 33 U.S.C. §1319(g))

CONSENT AGREEMENT

Docket No. CWA-08-2010-0037

Complainant United States Environmental Protection Agency, Region 8 (EPA) and
Holcim (US) Inc. (Respondent) hereby consent and agree as follows:

1. On September 28, 2010, EPA issued a complaint alleging certain violations of the
Clean Water Act (the Act), and proposed a civil penalty for the violations alleged therein,
pursuant to § 309(g) of the Act, 33 U.S.C. §1319(g).

2. Respondent admits the jurisdictional allegations of the complaint and neither
admits nor denies the specific factual allegations of the complaint.

3. Respondent waives its right to a hearing before any tribunal to contest any issue of
law or fact set forth in the complaint or in this consent agreement.

4. This consent agreement, upon incorporation into a final order, applies to and is
binding upon EPA and upon Respondent and Respondent's successors and assigns. Any change
in the ownership or corporate status of Respondent, including, but not limited to, any transfer of

assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This consent agreement contains all terms of the settlement agreed to by the parties.

5. Respondent consents and agrees to pay a civil penalty in the amount of fifty thousand dollars (\$50,000.00) in the manner described below:

a. Payment is due within 30 calendar days from the date written on the final order, issued by the Regional Judicial Officer, that adopts this consent agreement. If the due date for the payment falls on a weekend or legal federal holiday, then the due date is the next business day. Payment must be received by 11:00 AM Eastern Standard Time to be considered received that day.

b. Payment shall be made by one of the following methods:

I. **Payment by cashier's or certified check:**

A cashier's or certified check, including the name and docket number of this case, for this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

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

Overnight Mail:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza

Mail Station SL-MO-C2-GL
St. Louis, MO 63101

ii. **Wire Transfer:**

Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

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"

iii. **On Line Payment:**

This option is available through the Department of Treasury.

www.pay.gov

Enter sfo 1.1 in the search field

Open form and complete the required fields.

- c. A copy of the check or record of payment if sent by other means shall be sent simultaneously to:

David Gwisdalla
NPDES Enforcement Unit
Technical Enforcement Program (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

- d. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest will have accrued).
- e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the due date of any payment, and for each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Nothing in this consent agreement shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

7. Failure by the Respondent to comply with any of the terms of this consent agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this consent agreement and for such other relief as may be appropriate.

8. Nothing in this consent agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of the Respondent's failure to perform pursuant to the terms of this consent agreement.

9. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into and bind Respondent to the terms and conditions of this agreement.

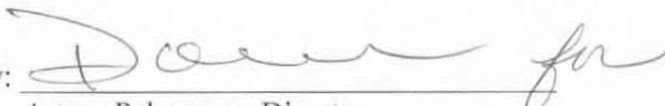
10. The parties agree to submit this consent agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

11. Each party shall bear its own costs and attorney fees in this matter.


12. This consent agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the complaint.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: _____

By:  for
Arturo Palomares, Director
Water Enforcement Program

Date: 1.14.11

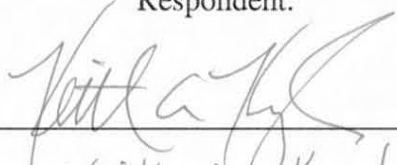
By: 
Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

HOLCIM (US) INC.

Respondent.

Date: January 6, 2011

By: _____


Keith A. Krugh

:

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT and FINAL ORDER** in the matter of **HOLCIM (US) INC.; DOCKET NO.: CWA-08-2010-0037** was filed with the Regional Hearing Clerk on January 19, 2011.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Wendy Silver, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt and e-mailed on January 19, 2011 to:

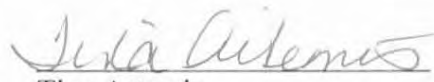
James Holtkamp
Holland and Hart
222 South Main Street, Suite 2200
Salt Lake City, UT 84101
jholtkamp@hollandhart.com

E-mailed to:

Honorable Spencer T. Nissen
Administrative Law Judge
U. S. Environmental Protection Agency (1900L)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

January 19, 2011


Tina Artemis
Paralegal/Regional Hearing Clerk

