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In the Matter of:)
)
Barrick Cortez, Inc.,)
)
)
)
Respondent)
_____)

Docket No. EPCRA-09-2011-0004

THIRD JOINT MOTION
FOR STAY

INTRODUCTION

This is a civil administrative action brought pursuant to Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for the assessment of a civil administrative penalty against Barrick Cortez, Inc. ("Barrick") for 34 alleged violations of Section 313 of EPCRA, 42 U.S.C. § 11023.

MOTION

U.S. Environmental Protection Agency ("EPA"), Region IX, filed a complaint in the above-captioned matter on September 29, 2011. EPA filed the first amended complaint in the above-captioned matter on January 4, 2012. Respondent Barrick filed its Answer and Request for Hearing on January 27, 2012. By order dated February 16, 2012, Administrative Law Judge M. Lisa Buschmann was assigned to this matter. On February 29, 2012, Judge Buschmann issued a pre-hearing order that established dates for the parties to submit a status report and prehearing exchange information.

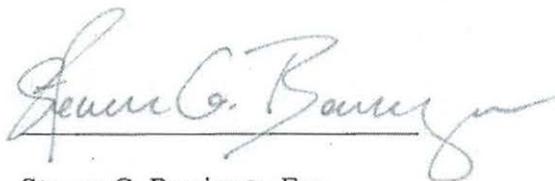
On March 12, 2012, the parties filed a Joint Motion for Stay, requesting that this matter be stayed so that the parties may engage in third-party mediation; this motion was granted on March 12, 2012, and this proceeding was stayed until May 11, 2012. On May 10, 2012, the parties filed a Second Joint Motion for Stay, requesting that the stay be extended for another 60 days so that the parties could continue mediation and fully resolve this matter; Judge Buschmann granted this motion on May 10, 2012, extending the stay until July 10, 2012.

The parties have reached an agreement in principle on civil penalty and several key issues but need additional time to resolve remaining issues and finalize the settlement. Pursuant to 40 C.F.R. § 22.16(a), the parties hereby request that this matter be stayed for another 60 days to September 10, 2012 to allow the parties to finalize the settlement.

Dated at San Francisco, California on this 6th day of July, 2012.



David H. Kim, Esq.
Attorney for Complainant
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CERTIFICATE OF SERVICE

I certify that the original of the foregoing Third Joint Motion for Stay was delivered by pouch mail to:

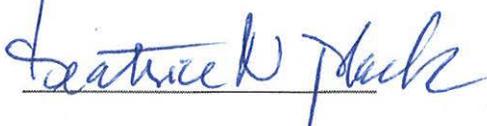
Sybil Anderson
Headquarters Hearing Clerk
Office of Administrative Law Judges (Mail Code 1900L)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

and that a true and correct copy of the Third Joint Motion for Stay was sent by pouch mail or the United States Mail addressed to the following:

The Honorable M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges (Mail Code 1900L)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

Steven G. Barringer, Esquire
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Dated: 7/6/2012

By: 

Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX

ATTACHMENT



1201 NEW YORK AVENUE, N.W. SUITE 625

WASHINGTON, DC 20005

TEL: 202-289-0400 FAX: 202-289-1033

July 6, 2012

The Honorable M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges (Mail Code 1900L)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

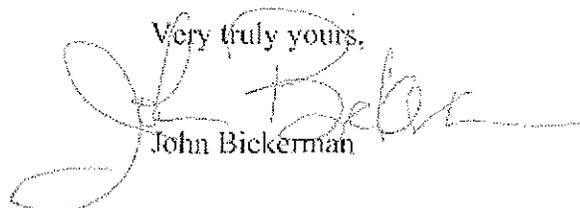
Re: In the Matter of Barrick Cortez, Inc., Docket #09-2011-0004

Dear Judge Buschmann:

On April 2, 2012, the United States Environmental Protection Agency ("EPA") and Barrick Cortez, Inc. ("Barrick") retained me to mediate an enforcement action brought by the EPA against Barrick. On April 18, 2012, the parties submitted confidential statements. An initial mediation session with the parties was held in San Francisco on May 2, 2012. A second meeting was held with the parties' experts in Denver on May 9, 2012. Subsequent meetings were held on May 31 and, most recently on June 29th in Salt Lake City.

I am pleased to report that the parties have made very substantial progress toward resolving their dispute. After our last meeting, I circulated an email that set out the basic terms of an agreement. The mediation participants are now seeking approval of those terms from their organizations. I expect that process to take several weeks or more. In addition, there is a substantive issue involving the parties' experts that may take additional time to work through. While I am not involved in the discussions the negotiating teams are having with their organizations, I am strongly encouraged with the progress we have made, to date, and believe it is in the interest of the Court to allow the parties the time they need to seek the approvals of their organizations and address the remaining technical issue.

I would be pleased to provide the Court with additional non-substantive information about the mediation.

Very truly yours,

John Bickerman