

UNITED STATES
 ENVIRONMENTAL PROTECTION AGENCY
 REGION IX

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US EPA - REGION IX
 HEARING CLERK

In the matter of)	U.S. EPA Docket No.
)	RCRA-9-2015-0002
World Resources Company)	
)	CONSENT AGREEMENT AND
EPA ID No. AZD 980735500)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
Respondent.)	22.18

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 Code of Federal Regulations ("C.F.R.") Part 22. Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is World Resources Company ("WRC" or "Respondent").
2. Respondent owns and operates a facility located at 8113 West Sherman Street, in Tolleson, Arizona, 85353 (the "Facility"). The Facility's EPA Identification Number is AZD980735500. Respondent is a recycling facility, producing metal concentrates from manufacturing residues.
3. On March 21 - 22, 2012, EPA conducted a RCRA Compliance Evaluation Inspection ("CEI") at the Facility. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated Arizona Revised Statutes ("A.R.S.") 49-922, and regulations adopted pursuant thereto [*see also* Sections 3001, 3004 and 3005 of RCRA, 42 U.S.C. §§ 6921, 6924 and 6925].
4. This Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to prepare a manifest for shipment of hazardous waste, a violation of Arizona Administrative Code ("A.A.C.") R18-8-262.A [*see also* 40 C.F.R. § 262.20]. This is a violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and state regulations adopted pursuant thereto.¹

¹ EPA is enforcing Arizona hazardous waste management program requirements as approved and

B. JURISDICTION

5. On November 20, 1985, the State of Arizona received authorization to administer the base 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. § 271, effective December 4, 1985. Subsequent program revision applications were also approved. The State of Arizona has been authorized for all the regulations referenced in this CA/FO.
6. The authorized program is established pursuant to the Arizona Laws Relating to Environmental Quality, Title 49, A.R.S. 49-921, *et seq.*, and the regulations promulgated thereunder in the Arizona Administrative Code, Title 18, Chapter 8, Article 2.
7. Respondent is a "person" as defined in A.R.S. 49-921 and A.A.C. R18-8-260.F.5 [*see also* 40 C.F.R. § 260.10].
8. Respondent is the "operator" of a facility as defined in A.A.C. R18-8-260.C and 270.A [*see also* 40 C.F.R. § 260.10].
9. Respondent is a "generator" of hazardous waste as defined in A.A.C. R18-8-260.C [40 C.F.R. § 260.10].
10. Respondent is or has been engaged in "storage" and "treatment" of hazardous waste as defined in A.A.C. R18-8-260.C [*see also* 40 C.F.R. § 260.10].
11. Respondent generates and manages, or has generated or managed, materials that are "wastes" as defined in A.A.C. R18-8-260.A and R18-8-261.A [*see also* 40 C.F.R. § 260.10 and 261.2].
12. At the Facility, Respondent manages or generates, or has managed or generated, "hazardous waste" as defined in A.A.C. R18-8-260.C and R18-8-261.A [*see also* RCRA 40 C.F.R. §§ 260.10 and 261.3] including but not limited to: listed wastes, including F006 and F019 (wastewater treatment sludges); and characteristic wastes, including D004 (arsenic), D005 (barium), D006 (cadmium), D007 (chromium), D008 (lead), D009 (mercury), D010 (selenium), and D011 (silver), which are "hazardous wastes" as defined in A.R.S. 49-921(5), A.A.C. R18-8-260.C and 261.A [*see also* Section 1004(5) of RCRA, 42 U.S.C. §6903(5), 40 C.F.R. §§ 260.10 and 261.3].

authorized by the United States. Corresponding Federal citations are provided in brackets.

13. 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.
14. A violation of Arizona's authorized hazardous waste program, found at A.R.S. 49-921, et seq., and the regulations promulgated thereunder in the A.A.C., Title 18, Chapter 8, Article 2, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates Arizona's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
15. 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.*
16. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region 9, who has redelegated this authority to the signatory below.

C. ALLEGED VIOLATION

COUNT I

Failure to Prepare a Manifest for Shipment of Hazardous Waste

17. Paragraphs 1 through 16 above are incorporated herein by this reference as if they were set forth here in their entirety.
18. A.A.C. R18-8-262.A [*see also* 40 C.F.R. § 262.20(a)] requires that a generator who transports, or offers for transport, a hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest according to the instructions included in the appendix to 40 C.F.R. Part 262.
19. As part of EPA's investigation, EPA determined that WRC had shipped certain hazardous wastes offsite to a reclamation facility, without preparing a Manifest for transport of hazardous waste.
20. Therefore, EPA alleges that Respondent violated A.A.C. R18-8-262.A [*see also* 40 C.F.R. § 262.20].

D. CIVIL PENALTY

21. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996 and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, 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. Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the 2003 RCRA Civil Penalty Policy (“Penalty Policy”), including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed THIRTY NINE THOUSAND NINE HUNDRED DOLLARS (\$39,900.00) as the civil penalty for the violations alleged herein. The proposed penalty was calculated in accordance with the Penalty Policy.

E. ADMISSIONS AND WAIVERS OF RIGHTS

22. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
23. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, 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 CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

24. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G, and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
25. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

26. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

27. Respondent consents to the assessment of and agrees to pay a civil penalty of THIRTY NINE THOUSAND NINE HUNDRED DOLLARS (\$39,900.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.

28. Respondent shall submit payment of the THIRTY NINE THOUSAND NINE HUNDRED DOLLARS (\$39,900.00) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments 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. The civil penalty shall be paid by one of the other methods listed below.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent as follows:

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.

29. At the time payment is made, a copy of the check shall be sent to:

Regional Hearing Clerk
Office of Regional Counsel (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

and

John Brock (ENF 2-2)
Enforcement Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

30. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

31. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: ONE HUNDRED DOLLARS (\$100) per day for first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND DOLLARS (\$1,000) per day for each day of delay thereafter.

32. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification 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-day period.
33. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 28.
34. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
35. 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 CA/FO.

I. CERTIFICATION OF COMPLIANCE

36. By signing this consent agreement, Respondent certifies under penalty of law to EPA that the Respondent has fully complied with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921–6939e, and the federally authorized Arizona hazardous waste management program including the relevant sections of A.A.C. R18-8-262.A that formed the basis for the violations alleged in this CA/FO. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

J. RESERVATION OF RIGHTS

37. 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 CA/FO. 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

CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO 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.

38. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
39. The entry of this CA/FO 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 except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
40. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

J. OTHER CLAIMS

41. Nothing in this CA/FO 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

42. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
43. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
44. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

45. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

IT IS SO AGREED.

January 28, 2015

Date

9 FEB 2015

Date

Will P. Motchall

By, Title: Executive Vice President &
General Counsel
World Resources Company

D. Daniel

Douglas K. McDaniel, Chief
Waste and Chemical Section
Enforcement Division
U.S. Environmental Protection Agency, Region 9

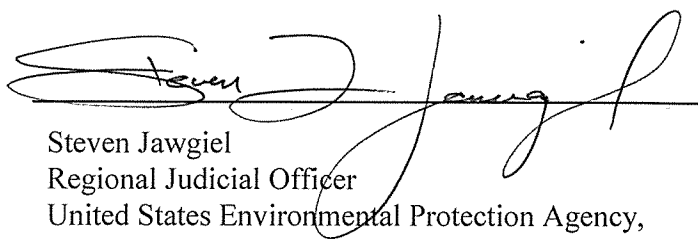
FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9-2015-0002) be entered and that World Resources Company pay a civil penalty of THIRTY NINE THOUSAND NINE HUNDRED DOLLARS (\$39,900.00) due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

02/10/15

Date


Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of **World Resources Company (Docket #: RCRA-09-2015-0002)** 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:

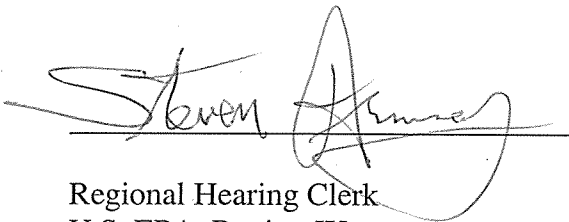
A copy was mailed via CERTIFIED MAIL to:

Martin Lehman
General Manager
World Resources Company
8113 West Sherman Street
Tolleson, AZ 85353-4025

CERTIFIED MAIL NUMBER: 7012 1640 0001 2190 5270

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

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


Regional Hearing Clerk
U.S. EPA, Region IX

2-11-2015
Date