

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

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US EPA - REGION IX  
REGISTRATION CLERK

In the matter of )  
 )  
West Coast Wood Preserving LLC )  
 )  
 )  
EPA ID No. CAT000611145 )  
 )  
Respondent. )

U.S. EPA Docket No.  
RCRA- 9-2015- 0003  
  
CONSENT AGREEMENT AND  
FINAL ORDER PURSUANT TO  
40 C.F.R. SECTIONS 22.13 AND  
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 West Coast Wood Preserving LLC (Respondent or "WCWP").
2. Respondent owns and operates a facility located at 5601 District Boulevard, in Bakersfield, California, 93313 (the "Facility"). The Facility's EPA Identification Number is CAT000611145. Respondent treats lumber primarily for construction.
3. On November 21, 2013, inspectors from the EPA conducted an unannounced RCRA Compliance Evaluation Inspection ("CEI"). The purpose of the inspection was to determine the Facility's compliance with applicable federal environmental statutes and regulations, and in particular RCRA, as amended, and the regulations in 40 C.F.R. Parts 261-265, 268, 273 and 279, and the regulations adopted by the California authorized program under RCRA in the California Code of Regulations ("C.C.R.")<sup>1</sup>, Title 22, Division 4.5 and the California Health and Safety Code, Division 20. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.

<sup>1</sup> All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. Corresponding Federal citations are provided in brackets.

12. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty for any past or current violation, or 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.*
13. 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.

C. ALLEGED VIOLATION

COUNT I

Failure to maintain drip pads

14. Paragraphs 1 through 13 above are incorporated herein by this reference as if they were set forth here in their entirety.
15. 22 C.C.R. § 66262.34(a) allows a generator to accumulate hazardous waste onsite for up to 90 days without a permit or interim status, provided that the generator complies with certain requirements [*see also* 40 C.F.R. § 262.34(a)].
16. The 22 C.C.R. § 66262.34(a) requirements include that waste must be placed in containers, in tanks, on drips pads, or in containment buildings, that meet relevant regulatory requirements.
17. Respondent accumulates hazardous waste on drip pads.
18. 22 C.C.R. § 66262.34(a)(1)(iii) states that drips pads must comply with the requirements for drip pads at 22 C.C.R. §§ 66265.440 – 66265.445 [*see also* 40 C.F.R. Part 265, Subpart W].
19. 22 C.C.R. § 66265.443(c) states that drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad [*see also* 40 C.F.R. § 265.443].
20. At the time of the CEI, the EPA Inspectors observed that the drip pads were not free of cracks or other deterioration.
21. Therefore EPA alleges that Respondent violated the requirements of 22 C.C.R. § 66265.443(c) [*see also* 40 C.F.R. § 265.443].

D. CIVIL PENALTY

22. 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

G. PAYMENT OF CIVIL PENALTY

28. Respondent consents to the assessment of and agrees to pay a civil penalty of THIRTY THOUSAND DOLLARS (\$30,000.00) in full settlement of the federal civil penalty claims alleged in this CA/FO.
29. Respondent shall submit payment of the THIRTY THOUSAND DOLLARS (\$30,000.00) within thirty (30) calendar days of the Effective Date of this CA/FO in accordance with one of the options set forth below. 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.

Regular Mail:

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

US 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

separation between the drip pad and the perimeter berm; and

- as-needed preventative maintenance, including repairing any deterioration and re-sealing of the drip pads using products developed for drip pads with wood preserving products in accordance with the manufacturer's/suppliers requirements, and that meet the standards at 22 C.C.R. §§ 66265.440 – 66265.445 [see also 40 C.F.R. 265, Subpart W].
33. Respondent will submit a report to Richard Francis at EPA, at the address in Paragraph 30 above, no later than sixty (60) days after each biannual maintenance event for three years after the Effective Date. The report shall include a summary of (a) inspection observations, and (b) any repairing and/or resealing conducted.
34. Within one year of the Effective Date, Respondent shall re-apply over the entire surface of the drip pads a concrete sealer that meets the standards at 22 C.C.R. §§ 66265.440 – 66265.445 [see also 40 C.F.R. 265, Subpart W].

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

35. 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: FIVE HUNDRED DOLLARS (\$500) per day for first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for each day of delay thereafter.
36. 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.
37. All penalties shall be submitted as described in Paragraph 29.
38. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
39. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.
40. 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.

M. MISCELLANEOUS

46. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
47. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
48. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.
49. 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.

2-3-15

Date

Elaina Jackson

Elaina Jackson, President  
West Coast Wood Preserving

2/23/15

Date

D. K. McDaniel

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

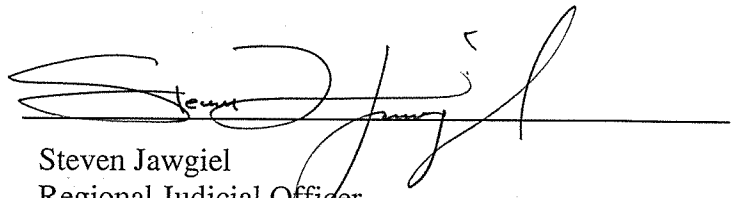
FINAL ORDER

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- 0803 ) be entered and that West Coast Wood Preserving LLC pay a civil penalty of \$30,000.00 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.

02/24/15

Date

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

**CERTIFICATE OF SERVICE**

Docket No. RCRA-9-2015-0003

I hereby certify that on the date below, the original copy of the foregoing Complaint, Consent Agreement and Final Order, with the Docket numbers referenced above, was filed with the Regional Hearing Clerk, Region IX, and that a copy was sent by certified Mail, Return Receipt Requested to:

Elaina Jackson  
Owner  
West Coast Wood Preserving  
5601 District Boulevard  
Bakersfield, CA 93313

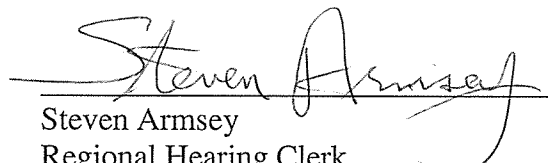
CERTIFIED MAIL NUMBER: 7009 0080 0001 2086 8272

I hereby certify that an additional copy was hand-delivered to the following U.S EPA case attorney:

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

Feb. 25, 2015

Date

  
Steven Armsey  
Regional Hearing Clerk  
Office of Regional Counsel, Region IX

Decommissioned