

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of)	U.S. EPA Docket No.
)	RCRA- 9-2015- 0006
Laboratory Corporation of America)	
)	CONSENT AGREEMENT AND
CA ID No. CAL000318762)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
<u>Respondent.</u>)	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 Laboratory Corporation of America (Respondent or "LabCorp").
2. Respondent owns and operates a facility located at 2440 South Sepulveda Boulevard, #235, in Los Angeles, California (the "Facility"). The Facility maintains the California RCRA Identification Number CAL000318762. At the Facility, Respondent operates laboratories for its Clinical Trials Group, National Genetics Institute and Dianon Histology Lab.
3. On September 17, 2014, inspectors from the United States EPA conducted an unannounced RCRA Compliance Evaluation Inspection ("CEI") at the Facility. 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, Title 22, Division 4.5 and the California Health and Safety Code, Division 20. Based upon the findings EPA made during the inspection, EPA determined that Respondent had violated provisions of RCRA and California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.

4. This Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to: (1) obtain EPA generator identification number prior to treating, storing, disposing or transporting RCRA hazardous waste, a violation of 22 California Code of Regulations ("C.C.R.") § 66262.12 [*see also* 40 C.F.R. § 262.12]; (2) ensure that satellite accumulation containers are always closed during transfer or storage (accumulation), except when necessary to add or remove wastes, a violation of 22 C.C.R. §§ 66262.34(e)(1)(D) and 66265.173(a) [*see also* 40 C.F.R. §§ 262.34(c)(1)(i) and 40 C.F.R. § 265.173(a)]; (3) close containers of hazardous waste, a violation of 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.173(a) [*see also* 40 C.F.R. §§ 262.34(a)(1)(i) and 265.173]; (4) maintain a comprehensive contingency plan that includes a list of all emergency equipment, including location, a violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.52 [*see also* 40 C.F.R. §§ 262.34(a)(4) and 265.52]; and (5) properly mark and label hazardous waste satellite accumulation containers, a violation of 22 C.C.R. § 66262.34(a)(1). These are all in violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and federal and state regulations adopted pursuant thereto.

B. JURISDICTION

5. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* California has been authorized for all the regulations referenced in this CA/FO.
6. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
7. Respondent is the "operator" of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
8. Respondent is a "generator" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
9. Respondent is or has been engaged in "storage" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
10. Respondent generates and accumulates, or has generated and accumulated, materials that are "wastes" as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and 261.2].
11. At the Facility, Respondent generates and accumulates, or has generated and accumulated, "hazardous waste" as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 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, xylene (F003), chloroform (D022), acetone (D001) and ethanol (D001).

12. 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.
13. A violation of California's authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California'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.
14. 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.*
15. 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 Director of the Enforcement Division.

C. ALLEGED VIOLATIONS

COUNT I

Failure to obtain EPA RCRA identification number

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. § 66262.12 requires that generators obtain an EPA generator identification number prior to treating, storing, disposing or transporting hazardous waste.
18. At the time of the CEI, the EPA Inspectors observed that LabCorp had not obtained an EPA generator identification number prior to treating, storing, disposing or transporting RCRA hazardous waste. The ID number being used by LabCorp is for California-only hazardous waste.
19. Therefore EPA alleges that Respondent violated the requirements of 66262.12 [*see also* 40 C.F.R. § 262.12].

COUNT II

Failure to close satellite accumulation containers

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.

21. 22 C.C.R. §§ 66262.34(e)(1)(D) and 66265.173(a) require hazardous wastes stored at or near any point of generation where wastes initially accumulate under the control of the operator of the process ("satellite accumulation") to be closed during storage, except when necessary to add or remove wastes.
22. During the CEI the EPA Inspectors observed satellite accumulation containers with hazardous wastes that were not closed during storage and when not necessary to add or remove waste. The containers under the lab benches were not closed.
23. Therefor EPA alleges that Respondent failed to close satellite accumulation containers in violation of 22 C.C.R. §§ 66262.34(e)(1)(D) and 66265.173(a) [see also 40 C.F.R. §§ 262.34(c)(1)(i) and 40 C.F.R. § 265.173(a)].

COUNT III

Failure to close hazardous waste storage container

24. Paragraphs 1 through 23 above are incorporated herein by this reference as if they were set forth here in their entirety.
25. 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.173(a) require a container holding hazardous waste to be closed during storage, except when it is necessary to add or remove waste.
26. During the CEI, EPA Inspectors observed a container of hazardous waste (acetone) in a hazardous waste accumulation area that was not closed during storage and when not necessary to add or remove waste. The funnel on this container was not vapor tight.
27. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(a)(1)(A), and 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 262.34(a)(1)(i) and 40 C.F.R. § 265.173(a)]

COUNT IV

Failure to maintain a comprehensive contingency plan

28. Paragraphs 1 through 27 above are incorporated herein by this reference as if they were set forth here in their entirety.
29. 22 C.C.R. §§ 66262.34(a)(4) and 66265.52 provides that a contingency plan must include a list of all emergency equipment at the Facility that is kept up to date, and include a physical description of each item on the list and a brief outline of its capabilities.
30. During the CEI, the EPA Inspectors observed that the contingency plan for the Facility failed to include a list of all emergency equipment, including location.
31. Therefore, EPA alleges that Respondent has violated 22 C.C.R. §§ 66262.34(a)(4) and 66265.52 [see also 40 C.F.R. §§ 262.34(a)(4) and 265.52(e)].

COUNT V

Failure to properly mark and label hazardous waste satellite accumulation containers

32. Paragraphs 1 through 31 above are incorporated herein by this reference as if they were set forth here in their entirety.
33. 22 CCR §§ 66262.34(e)(1) provides that a satellite accumulation container must be clearly marked and visible for inspection the date on which each period of accumulation begins, the composition and physical state of the wastes, the particular properties of the waste, and the name and address of the producing waste.
34. During the CEI, the EPA Inspectors observed satellite accumulation containers at the Facility that did not each have clearly marked and visible for inspection the date on which each period of accumulation begins, the composition and physical state of the wastes, the particular properties of the waste, and the name and address of the producing waste.
35. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(e)(1).

D. CIVIL PENALTY

36. 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 that 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 FIFTEEN THOUSAND ONE HUNDRED DOLLARS (\$15,100.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the Penalty Policy.

E. ADMISSIONS AND WAIVERS OF RIGHTS

37. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO 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.

38. Respondent neither admits nor denies specific factual allegations of fact 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

39. 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.
40. 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.
41. 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

42. Respondent consents to the assessment of and agrees to pay a civil penalty of FIFTEEN THOUSAND ONE HUNDRED DOLLARS (\$15,100.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.
43. Respondent shall submit payment of the FIFTEEN THOUSAND ONE HUNDRED DOLLARS (\$15,100.00) within thirty (30) calendar days of the Effective Date of this CA/FO by electronic funds transfer ("wire") or on-line payment as 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, California or EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action.

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"

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.

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

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

and

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

45. 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. If payment is not received by the due date, interest will accrue on any unpaid balance from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

46. 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, SEVEN

HUNDRED FIFTY DOLLARS (\$750) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$1,250) per day for each day of delay thereafter.

47. All penalties and interest 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.
48. All penalties and interest shall be remitted as described in Paragraph 43.
49. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete any other requirement of this CA/FO.
50. 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.
51. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions that may be available to EPA by reason of Respondents failure to comply with any of the requirements of this CA/FO.

I. CERTIFICATION OF COMPLIANCE

52. 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 California hazardous waste management program including 22 C.C.R. § 66262.34 [*see also* 40 C.F.R. § 262.34], and 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)], that formed the basis for the violations alleged in this CA/FO. This certification of compliance is based on 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

53. 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, except as to those civil penalties for the violations and facts alleged herein. 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 (except as to those civil penalties for the violations and facts alleged herein); 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.
54. 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.
55. 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 Respondents liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
56. 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.

K. OTHER CLAIMS

57. Nothing in this CA/FO shall constitute or be construed as a release from nor an admission by Respondents of 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.


L. MISCELLANEOUS

58. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
59. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

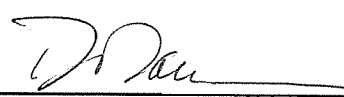
60. The Effective Date of this CA/FO is the date the Final Order is filed by the Regional Hearing Clerk following signature by the Regional Judicial Officer.

IT IS SO AGREED.

7/9/15
Date

 GM/VP
Name, Title:
Laboratory Corporation of America

7/27/15
Date


Douglas K. McDaniel, Chief
Waste and Chemical Section
Enforcement Division

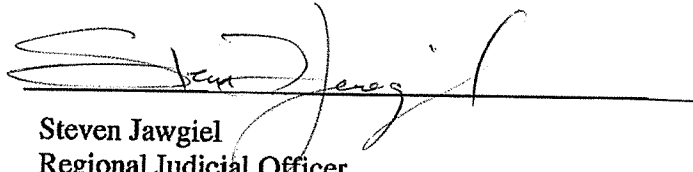
FINAL ORDER

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- 0006) be entered and that Laboratory Corporation of America pay a civil penalty of fifteen thousand and one hundred dollars (\$15,100.00) 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.

07/31/15

Date


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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of Laboratory Corporation of America (RCRA-09-2015-~~0006~~), signed by the Regional Judicial Officer, has been filed with the Regional Hearing Clerk, and was served on Respondent, and Counsel for EPA, as indicated below:

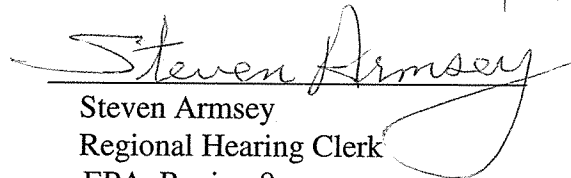
BY FIRST CLASS MAIL:
(Certified w/Return Receipt)

Respondent - Shawna Pine
National Genetics Institute, LabCorp
Site Compliance Officer
2440 S. Sepulveda Blvd., Suite 235
Los Angeles, CA 90064
(310) 689-4929 x 4903

HAND DELIVERED:

Complainant - Andrew Helmlinger, Esq.
Office of Regional Counsel
Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Dated at San Francisco, CA. this day of 31st July, 2015.


Steven Armsey
Regional Hearing Clerk
EPA, Region 9