

232. Respondent BCI failed to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
233. Respondent BCI's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 31: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2007

234. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
235. During the calendar year 2007, Respondent BCI "manufactured" over 25,000 pounds of nickel compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
236. Nickel compound is a toxic chemical listed under 40 C.F.R. § 372.65.
237. The threshold for reporting nickel compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
238. Respondent BCI was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
239. Respondent BCI failed to submit a complete and accurate Form R for nickel compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
240. Respondent BCI's failure to submit a complete and accurate Form R for nickel compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 32: Failure to Submit Timely Form R for Nitrate Compounds for 2007

241. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

242. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
243. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
244. The threshold for reporting nitrate compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
245. Respondent BCI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
246. Respondent BCI failed to submit a Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
247. Respondent BCI’s failure to submit a Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 33: Failure to Submit Timely Form R for Vanadium Compounds for 2007

248. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
249. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of vanadium compounds (N770), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
250. Vanadium compound (N770) is a toxic chemical listed under 40 C.F.R. § 372.65.
251. The threshold for reporting vanadium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
252. Respondent BCI was required to submit a complete and accurate Form R for vanadium

compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

253. Respondent BCI failed to submit a Form R for vanadium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
254. Respondent BCI's failure to submit a Form R for vanadium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

II. BGI Violations

COUNT 34: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

255. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
256. During the calendar year 2007, Respondent BGI "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
257. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.
258. The threshold for reporting cyanide compounds "otherwise used" at the BGI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
259. Respondent BGI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
260. Respondent BGI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
261. Respondent BGI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 35: Failure to Submit Timely, Complete and Accurate Form R for Hydrogen Cyanide for 2007

262. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
263. During the calendar year 2007, Respondent BGI “manufactured” over 25,000 pounds of hydrogen cyanide (74-90-8), as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
264. Hydrogen cyanide (74-90-8) is a toxic chemical listed under 40 C.F.R. § 372.65.
265. The threshold for reporting hydrogen cyanide “manufactured” at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
266. Respondent BGI was required to submit a complete and accurate Form R for hydrogen cyanide to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
267. Respondent BGI failed to submit a complete and accurate Form R for hydrogen cyanide for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
268. Respondent BGI’s failure to submit a complete and accurate Form R for hydrogen cyanide for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 36: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

269. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
270. During the calendar year 2007, Respondent BGI “manufactured” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
271. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.

272. The threshold for reporting mercury compounds “manufactured” at the BGI Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
273. Respondent BGI was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
274. Respondent BGI failed to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
275. Respondent BGI’s failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 37: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2007

276. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
277. During the calendar year 2007, Respondent BGI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
278. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
279. The threshold for reporting nitrate compounds “manufactured” at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
280. Respondent BGI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
281. Respondent BGI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

282. Respondent BGI's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 38: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2008

283. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

284. During the calendar year 2008, Respondent BGI "manufactured" over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.

285. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.

286. The threshold for reporting copper compounds "manufactured" at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

287. Respondent BGI was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

288. Respondent BGI failed to submit a complete and accurate Form R for copper compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

289. Respondent BGI's failure to submit a complete and accurate Form R for copper compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 39: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2008

290. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

291. During the calendar year 2008, Respondent BGI "otherwise used" over 10,000 pounds of

- cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
292. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.
293. The threshold for reporting cyanide compounds “otherwise used” at the BGI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
294. Respondent BGI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
295. Respondent BGI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
296. Respondent BGI’s failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 40: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2008

297. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
298. During the calendar year 2008, Respondent BGI “otherwise used” over 100 pounds of lead compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
299. Lead compound is a toxic chemical listed under 40 C.F.R. § 372.65.
300. The threshold for reporting lead compounds “otherwise used” at the BGI Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
301. Respondent BGI was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

302. Respondent BGI failed to submit a complete and accurate Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
303. Respondent BGI's failure to submit a complete and accurate Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 41: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2008

304. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
305. During the calendar year 2008, Respondent BGI "manufactured" over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
306. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.
307. The threshold for reporting mercury compounds "manufactured" at the BGI Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
308. Respondent BGI was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
309. Respondent BGI failed to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
310. Respondent BGI's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 42: Failure to Submit Timely Form R for Methanol for 2008

311. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

312. During the calendar year 2008, Respondent BGI “otherwise used” over 10,000 pounds of methanol (67-56-1), as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
313. Methanol (67-56-1) is a toxic chemical listed under 40 C.F.R. § 372.65.
314. The threshold for reporting methanol “otherwise used” at the BGI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
315. Respondent BGI was required to submit a complete and accurate Form R for methanol to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
316. Respondent BGI failed to submit a Form R for methanol for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
317. Respondent BGI’s failure to submit a Form R for methanol for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 43: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2008

318. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
319. During the calendar year 2008, Respondent BGI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
320. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
321. The threshold for reporting nitrate compounds “manufactured” at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
322. Respondent BGI was required to submit a complete and accurate Form R for nitrate

compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

323. Respondent BGI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
324. Respondent BGI's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

III. Homestake Violations

COUNT 44: Failure to Submit Timely Form R for Antimony Compounds for 2007

325. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
326. During the calendar year 2007, Respondent Homestake "processed" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
327. Antimony compound is a toxic chemical listed under 40 C.F.R. § 372.65.
328. The threshold for reporting antimony compounds "processed" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
329. Respondent Homestake was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
330. Respondent Homestake failed to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
331. Respondent Homestake's failure to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of

EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 45: Failure to Submit Timely Form R for Arsenic Compounds for 2007

332. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
333. During the calendar year 2007, Respondent Homestake “processed” over 25,000 pounds of arsenic compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
334. Arsenic compound is a toxic chemical listed under 40 C.F.R. § 372.65.
335. The threshold for reporting arsenic compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
336. Respondent Homestake was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
337. Respondent Homestake failed to submit a Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
338. Respondent Homestake’s failure to submit a Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 46: Failure to Submit Timely Form R for Barium Compounds for 2007

339. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
340. During the calendar year 2007, Respondent Homestake “processed” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
341. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
342. The threshold for reporting barium compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and

40 C.F.R. § 372.25.

- 343. Respondent Homestake was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 344. Respondent Homestake failed to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 345. Respondent Homestake's failure to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 47: Failure to Submit Timely Form R for Chromium Compounds for 2007

- 346. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 347. During the calendar year 2007, Respondent Homestake "processed" over 25,000 pounds of chromium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
- 348. Chromium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 349. The threshold for reporting chromium compounds "processed" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 350. Respondent Homestake was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 351. Respondent Homestake failed to submit a Form R for chromium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 352. Respondent Homestake's failure to submit a Form R for chromium compounds for calendar

year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 48: Failure to Submit Timely Form R for Copper Compounds for 2007

353. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
354. During the calendar year 2007, Respondent Homestake “processed” over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
355. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.
356. The threshold for reporting copper compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
357. Respondent Homestake was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
358. Respondent Homestake failed to submit a Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
359. Respondent Homestake’s failure to submit a Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 49: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

360. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
361. During the calendar year 2007, Respondent Homestake “otherwise used” over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

362. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.
363. The threshold for reporting cyanide compounds “otherwise used” at the Homestake Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
364. Respondent Homestake was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
365. Respondent Homestake failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
366. Respondent Homestake’s failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 50: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

367. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
368. During the calendar year 2007, Respondent Homestake “processed” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
369. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.
370. The threshold for reporting mercury compounds “processed” at the Homestake Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
371. Respondent Homestake was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
372. Respondent Homestake failed to submit a complete and accurate Form R for mercury

compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

373. Respondent Homestake's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 51: Failure to Submit Timely Form R for Zinc Compounds for 2007

374. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
375. During the calendar year 2007, Respondent Homestake "processed" over 25,000 pounds of zinc compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
376. Zinc compound is a toxic chemical listed under 40 C.F.R. § 372.65.
377. The threshold for reporting zinc compounds "processed" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
378. Respondent Homestake was required to submit a complete and accurate Form R for zinc compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
379. Respondent Homestake failed to submit a Form R for zinc compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
380. Respondent Homestake's failure to submit a Form R for zinc compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 52: Failure to Submit Timely Form R for Arsenic Compounds for 2008

381. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
382. During the calendar year 2008, Respondent Homestake "processed" over 25,000 pounds of arsenic compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

- 383. Arsenic compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 384. The threshold for reporting arsenic compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 385. Respondent Homestake was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
- 386. Respondent Homestake failed to submit a Form R for arsenic compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
- 387. Respondent Homestake’s failure to submit a Form R for arsenic compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 53: Failure to Submit Timely Form R for Barium Compounds for 2008

- 388. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 389. During the calendar year 2008, Respondent Homestake “processed” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
- 390. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 391. The threshold for reporting barium compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 392. Respondent Homestake was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
- 393. Respondent Homestake failed to submit a Form R for barium compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

394. Respondent Homestake's failure to submit a Form R for barium compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 54: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2008

395. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

396. During the calendar year 2008, Respondent Homestake "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

397. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.

398. The threshold for reporting cyanide compounds "otherwise used" at the Homestake Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

399. Respondent Homestake was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

400. Respondent Homestake failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

401. Respondent Homestake's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 55: Failure to Submit Timely Form R for Lead Compounds for 2008

402. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

403. During the calendar year 2008, Respondent Homestake "processed" over 100 pounds of lead

compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

404. Lead compound is a toxic chemical listed under 40 C.F.R. § 372.65.
405. The threshold for reporting lead compounds “processed” at the Homestake Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
406. Respondent Homestake was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
407. Respondent Homestake failed to submit a Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
408. Respondent Homestake’s failure to submit a Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 56: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2008

409. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
410. During the calendar year 2008, Respondent Homestake “processed” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
411. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.
412. The threshold for reporting mercury compounds “processed” at the Homestake Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
413. Respondent Homestake was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

414. Respondent Homestake failed to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
415. Respondent Homestake's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 57: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2008

416. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
417. During the calendar year 2008, Respondent Homestake "manufactured" over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
418. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
419. The threshold for reporting nitrate compounds "manufactured" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
420. Respondent Homestake was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
421. Respondent Homestake failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
422. Respondent Homestake's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 58: Failure to Submit Timely Form R for Zinc Compounds for 2008

423. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

424. During the calendar year 2008, Respondent Homestake “processed” over 25,000 pounds of zinc compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
425. Zinc compound is a toxic chemical listed under 40 C.F.R. § 372.65.
426. The threshold for reporting zinc compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
427. Respondent Homestake was required to submit a complete and accurate Form R for zinc compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
428. Respondent Homestake failed to submit a Form R for zinc compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
429. Respondent Homestake’s failure to submit a Form R for zinc compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

PROPOSED CIVIL PENALTY

Section 325© of EPCRA, 42 U.S.C. § 11045©, and the Civil Monetary Penalty Inflation Adjustment Rule (61 Fed. Reg. 69359 (December 31, 1996); 62 Fed. Reg. 13514 (March 20, 1997); and 69 Fed. Reg. 7121 (February 13, 2004)), authorize EPA to assess a civil penalty of up to \$32,500 per day for each violation of EPCRA Section 313 that occurs before January 12, 2009, and a civil penalty of up to \$37,500 per day for each violation of EPCRA Section 313 that occurs on or after January 12, 2009. Based upon the nature, circumstances, extent and gravity of the violations alleged, and with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require, as

set forth in the Enforcement Response Policy for Section 313 of EPCRA (“ERP”), dated August 10, 1992, and the Interim Data Quality Amendment to the EPCRA Section 313 Enforcement Response Policy, dated April 12, 2001, Complainant requests that the Administrator assess against Respondents a civil administrative penalty of up to \$32,500 or \$37,500 per day for each violation of the Act, as set forth above.

OPPORTUNITY TO REQUEST A HEARING

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, govern these proceedings.

Under these rules, you have the right to request a hearing. Any request for a hearing must be in writing and must be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California within twenty (20) days of receipt of this Second Amended Complaint. In the event that you intend to request a hearing to contest any material facts set forth in the Second Amended Complaint, to dispute the amount of the penalty proposed in the Second Amended Complaint, or to assert a claim for judgment as a matter of law, you must file a written Answer to this Second Amended Complaint with the Regional Hearing Clerk at the above address within twenty (20) days of receipt of this Second Amended Complaint. A copy of your Answer should also be sent to:

David H. Kim
Assistant Regional Counsel (ORC-3)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Your Answer should clearly and directly admit, deny, or explain each factual allegation

contained in this Second Amended Complaint with regard to which you have any knowledge. The Answer should state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) a concise statement of the facts which you intend to place at issue in the hearing; and (3) whether a hearing is requested. Hearings held in the assessment of the civil penalties will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. §§ 551 et seq., and the Consolidated Rules of Practice. See 40 C.F.R. Part 22.

If you fail to file an Answer to this Second Amended Complaint with the Regional Hearing Clerk within twenty (20) days of receipt, such failure shall constitute an admission of all facts alleged in the Second Amended Complaint and a waiver of your right to a hearing. The proposed penalty shall become due and payable by you without further proceedings sixty (60) days after a final order issued upon default.

SETTLEMENT CONFERENCE

EPA encourages all parties against whom civil penalties are proposed to pursue the possibilities of settlement through informal conferences. Therefore, whether or not you request a hearing, you may confer informally with the Agency concerning the alleged violation or the amount of the proposed penalty. You may wish to appear at the conference yourself or be represented by counsel. If a settlement is reached, it shall be finalized by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA, Region IX. The issuance of such Consent Agreement and Final Order shall constitute a waiver of your right to request a hearing of any matter stipulated to therein.

To explore the possibility of settlement in this matter, address your correspondence to:

David H. Kim
Assistant Regional Counsel (ORC-3)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street

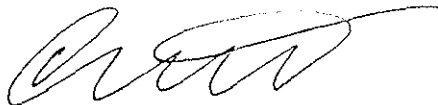
San Francisco, CA 94105

His telephone number is (415) 972-3882.

Instead of requesting an informal settlement conference or filing an Answer requesting a hearing, you may choose to pay the proposed penalty. In order to do this, please contact Mr. Kim to arrange for the preparation of a Consent Agreement and Final Order.

After this Second Amended Complaint is issued, the Consolidated Rules of Practice prohibit ex parte (unilateral) discussion of the merits of any action with the EPA Regional Administrator, Chief Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of this case.

Dated at San Francisco, California on this ²³__ day of January, 2013.



Enrique Manzanilla
Director, Communities and Ecosystems Division
USEPA, Region 9

CERTIFICATE OF SERVICE

I certify that the original and a copy of the foregoing Second Amended Complaint and Notice of Opportunity for Hearing 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 Second Amended Complaint was placed in pouch mail or the United States Mail, addressed to the following:

The Honorable M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW/Mail Code 1900L
Washington, D.C. 20460

Patrick Malone, Esq.
Barrick Gold Corporation
136 East South Temple, Suite 1800
Salt Lake City, UT 84111

Steven Barringer, Esq.
Holland & Hart, LLP
975 F Street, N.W., Suite 900
Washington, D.C. 20004

Dated: 1/24/2013

By: 

Office of Regional Counsel
USEPA, Region 9