



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 24 2009

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL 7001 0320 0005 8915 4797
RETURN RECEIPT REQUESTED

Mr. George Obeldbel
President
Big River Zinc Corporation
2401 Mississippi Avenue
Sauget, Illinois 62201

Re: Consent Agreement and Final Order
Big River Zinc Corporation (EPA ID.: ILD062444435)
Docket No.: **RCRA-05-2009-0022**

Dear Mr. Obeldobel:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on SEP 28 2009 with the Regional Hearing clerk (RHC).

Please pay the civil penalty in the amount of \$24,054 in the manner prescribed in paragraph 73 of the CAFO, and reference all checks with the number BD 2750942R014 and docket number RCRA-05-2009-0022. Your payment is due within 30 days after the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink that reads "Willie H. Harris".

Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2009-0022
)	
Big River Zinc Corporation)	Proceeding to Commence and Conclude
2401 Mississippi)	an Action to Assess a Civil Penalty
Sauget, Illinois 62201)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
U.S. EPA ID No.: ILD062444435)	42 U.S.C. § 6928(a)
)	
Respondent.)	
<hr/>		

RECEIVED
SEP 28 2009

Consent Agreement and Final Order

**REGIONAL HEARING CLERK
USEPA
REGION 5**

I. Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Big River Zinc Corporation, a corporation doing business in the State of Illinois, and incorporated in the State of Delaware.

5. Where the parties agree to settle one or more causes of action before the filing of a

complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

II. Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO. Respondent is entering into this CAFO solely for the purpose of avoiding costly and protracted litigation. Respondent retains the right to controvert the factual allegations and alleged violations in any subsequent proceeding, other than a proceeding to enforce the terms of this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6939e and the regulations at 40 C.F.R. §§ 260.1 – 279.82.

III. Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986). The Administrator of U.S. EPA granted Illinois final authorization to administer certain HSWA and additional RCRA requirements effective March 5, 1988, 53 Fed. Reg. 126 (January 5, 1988); April 30, 1990, 55 Fed. Reg. 7320 (March 1, 1990); June 3, 1991, 56 Fed. Reg. 13595 (April 3, 1991); August 15, 1994, 59 Fed. Reg. 30525 (June 14, 1994); May 14, 1996, 61 Fed. Reg. 10684 (March 15, 1996); and October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The U.S. EPA-authorized Illinois regulations are codified at 35 Illinois Administrative Code (IAC) Part 703 *et seq.* See also 40 C.F.R. § 272.700 *et seq.*

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31

U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004, and \$37,500 for each violation that occurred after January 12, 2009.

IV. Factual Allegations and Alleged Violations

16. Respondent is Big River Zinc Corporation, which is and was at all times relevant to this Complaint, the owner or operator, as defined by 35 IAC § 720.110 and 40 C.F.R. § 260.10, of a facility located at 2401 Mississippi Avenue in Sauget, Illinois (the "Facility").

17. Respondent was and is a "person" as defined by 35 IAC § 720.110, 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. At all times relevant to this Complaint, Respondent generated wastes at the Facility which were solid wastes, as defined in 35 IAC § 721.102, 40 C.F.R. § 260.10 and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

19. At all times relevant to this Complaint, Respondent generated hazardous wastes at the Facility which were hazardous wastes, as defined in 35 IAC § 721.103 and 40 C.F.R. § 261.3.

20. Respondent is a "generator," as that term is defined in 35 IAC § 720.110 and 40 C.F.R. § 260.10.

21. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6930, or the analogous Illinois regulations as part of the applicable state hazardous waste management program for the state of Illinois, or both.

22. At all times relevant to this Complaint, Respondent generated more than 1,000

kilograms (2,205 pounds) of hazardous waste in a calendar year and was a large quantity generator.

23. On September 19, 2007, EPA conducted an inspection of the facility.

24. On January 17, 2008, EPA issued Respondent a Notice of Violation (NOV) for alleged violations detected as a result of the inspection.

25. Respondent responded to this NOV with a written submittal dated February 13, 2008 (NOV Reply).

V. Count 1

26. Complainant incorporates paragraphs 1 through 25 of this Complaint as though set forth in this paragraph.

27. No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal without a RCRA permit for the hazardous waste management facility. 35 IAC § 703.121(a).

28. Generators accumulating hazardous waste on-site are exempted from the need to apply for and obtain a RCRA permit provided, among other things, the generator places the waste in or on containers, tanks, drip pads or containment buildings. 35 IAC § 722.134(a)(1); 40 C.F.R. § 262.34(a)(1).

29. At the time of the inspection, Respondent had placed hazardous waste on-site in two open piles at the northeast portion of the Facility.

30. Specifically, Respondent began placing hazardous waste concrete in an open pile at the northeast portion of the Facility, in an area known as the Concentrate Storage Pad.

31. The date upon which material was first placed in this pile was indicated by a sign posted on a building directly behind the pile which read, "Hazardous Waste Contaminated Concrete Begin Fill August 23, 2007 Ship By November 21, 2007."

32. Waste analysis records reviewed by the inspector during the inspection and hazardous waste manifests associated with the off-site shipment of this waste, submitted in Respondent's NOV Reply, indicated that the waste concrete possessed the characteristic of toxicity as a result of its cadmium concentration.

33. Specifically, Respondent began placing hazardous waste wood in an open pile (inside a concrete barricade open on one side) at the northeast portion of the Facility, immediately to the west of a building known as the Concentrate Storage Building.

34. The date upon which material was first placed in this pile was indicated by a sign posted in front of the pile which read, "Hazardous Waste Contaminated Wood Begin Fill September 10, 2007 Ship By December 9, 2007."

35. Waste analysis records reviewed by the inspector during the inspection and hazardous waste manifests associated with the off-site shipment of this waste, submitted in Respondent's NOV Reply, indicated the waste wood possessed the characteristic of toxicity as a result of its cadmium and lead concentrations.

36. Both the hazardous waste concrete and hazardous waste wood were generated by Respondent as a result of demolition activities conducted at its facility in support of operations aimed at restructuring Respondent's production processes.

37. According to Respondent's NOV Reply, the hazardous waste concrete and wood were shipped off-site to Michigan Disposal Waste Treatment Plant in September and October, 2007.

38. The ten hazardous waste manifests associated with these shipments indicated that the hazardous waste placed in the two piles amounted to approximately 366,000 lbs.

39. Respondent did not have, and does not have, a permit to store hazardous waste in open piles at the Facility.

40. U.S. EPA alleges that Respondent violated 35 IAC § 703.121 by storing hazardous waste at the Facility in two open piles, without having a RCRA Permit, and without meeting a condition for a RCRA Permit exemption.

41. This alleged violation began at least as early as August 23, 2007 (corresponding to the date the hazardous waste concrete pile began accumulating) and continued until at least October 13, 2007, which corresponds to the date the transporter signed the last manifested shipment of hazardous waste stored in the piles.

VI. Count 2

42. Complainant incorporates paragraphs 1 through 25 of this Complaint as though set forth in this paragraph.

43. Owners and operators of all facilities that treat, store, or dispose of hazardous waste are required to comply with 35 IAC Part 724, except as specifically provided otherwise in 35 IAC Parts 724 or 721 [40 C.F.R. Parts 264 and 261]. 35 IAC § 724.101(b) [40 C.F.R. § 264.1(b)]

44. A generator accumulating waste on-site in compliance with 35 IAC § 722.134 [40 C.F.R. § 262.34] is exempt from compliance with 35 IAC Part 724 [40 C.F.R. Part 264]. 35 IAC § 724.101(g)(3) [40 C.F.R. 264.1(g)(3)].

45. A generator accumulating waste on-site, without a permit or without having interim status must comply with the requirements for owners or operators in 35 IAC Part 725,

Subparts C and D [40 C.F.R. Part 265, Subparts C and D and with 40 C.F.R. § 265.16], which includes the contingency plan requirements of 35 IAC § 725.152 [40 C.F.R. § 265.52]. 35 IAC § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)].

46. A contingency plan must describe arrangements agreed to by local police department, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to 35 IAC § 725.137 [40 C.F.R. § 265.37]. 35 IAC § 725.152(c) [40 C.F.R. § 265.52(c)].

47. A contingency plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see 35 IAC § 725.155), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. 35 IAC § 725.152(d) [40 C.F.R. § 265.52(d)].

48. A contingency plan must include a list of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment] where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities. 35 IAC § 725.152(e) [40 C.F.R. § 265.52(e)].

49. U.S. EPA alleges that at the time of the inspection, Respondent's contingency plan did not describe arrangements agreed to by local police department, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to 35 IAC § 725.137 [40 C.F.R. § 265.37].

50. U.S. EPA alleges that at the time of the inspection, Respondent's contingency plan did not list the home addresses of the two persons listed as alternate emergency coordinators.

51. U.S. EPA alleges that at the time of the inspection, Respondent's contingency plan did not include a brief outline of the capabilities of the emergency equipment listed in the contingency plan.

52. Therefore, U.S. EPA alleges that Respondent was not in compliance with 35 IAC § 725.152(c), (d) and (e) [40 C.F.R. § 265.152(c), (d) and (e)].

53. Therefore, U.S. EPA alleges that Respondent was not in compliance with 35 IAC § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)].

54. Therefore, U.S. EPA alleges that Respondent was not exempt from the requirement to comply with 35 IAC Part 724 [40 C.F.R. Part 264].

55. A contingency plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services pursuant to 35 IAC § 724.137 [40 C.F.R. § 264.37]. 35 IAC § 724.152(c) [40 C.F.R. § 264.52(c)].

56. A contingency plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see 35 IAC § 724.155), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. 35 IAC § 724.152(d) [40 C.F.R. § 264.52(d)].

57. A contingency plan must include a list of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems

(internal and external), and decontamination equipment], where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities. 35 IAC § 724.152(e) [40 C.F.R. § 264.52(e)].

58. U.S. EPA's January 17, 2008, NOV to Respondent informed Respondent of the above-mentioned alleged deficiencies in its contingency plan in its.

59. In its NOV Reply, Respondent stated the following: "BRZ's Hazardous Waste Contingency Plan has been reviewed for completeness and accuracy to ensure compliance with applicable Federal and State Regulations. After reviewed it was determined some items were not as easily accessible as they could have been, so the decision was made to revise and reissue the Plan. We will forward a copy of the old plan and the new issue to you for your review no later than 31 March, 2008."

60. Therefore, U.S. EPA alleges that Respondent violated 35 IAC § 724.152(c), (d) and (e) [40 C.F.R. § 264.52(c), (d) and (e)].

VII. Count 3

61. Complainant incorporates paragraphs 1 through 25 of this Complaint as though set forth in this paragraph.

62. The standards in 35 IAC Part 724 [40 CFR Part 264] apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in 35 IAC Parts 724 or Part 721 [40 C.F.R. Parts 264 and 261]. 35 IAC § 724.101(b) [40 C.F.R. § 264.1(b)].

63. A generator accumulating waste on-site in compliance with 35 IAC § 722.134 [40 C.F.R. § 262.34] is exempt from compliance with 35 IAC Part 724 [40 C.F.R. Part 264]. 35 IAC § 724.101(g)(3) [40 C.F.R. 264.1(g)(3)].

64. A generator accumulating waste on-site, without a permit or without having interim status must comply with the requirements of 35 IAC § 725.116 [40 C.F.R. § 265.16]. 35 IAC § 722.134(a)(4); [40 C.F.R. § 262.34(a)(4)].

65. The owner or operator of a facility must maintain a document that provides a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management. 35 IAC § 725.116(d)(3) [40 C.F.R. § 265.16(d)(3)].

66. U.S. EPA alleges that at the time of the inspection, Respondent did not have a document that provided a written description of the type and amount of both introductory and continuing training that would be given to each person filling a position listed under 35 IAC § 725.116(d)(1) [40 C.F.R. § 265.16(d)(1)].

67. Therefore, U.S. EPA alleges that Respondent was not in compliance with 35 IAC § 725.116(d)(3) [40 C.F.R. § 265.16(d)(3)].

68. Therefore, U.S. EPA alleges that Respondent was not in compliance with 35 IAC § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)].

69. Therefore, U.S. EPA alleges that Respondent was not exempt from the requirement to comply with 35 IAC Part 724 [40 C.F.R. Part 264].

70. The owner or operator of a facility must maintain a document that provides a written description of the type and amount of both introductory and continuing training that will

be given to each person filling a position related to hazardous waste management. 35 IAC § 724.116(d)(3) [40 C.F.R. § 264.16(d)(3)].

71. Therefore, U.S. EPA alleges that Respondent violated 35 IAC § 724.116(d)(3) [40 C.F.R. § 264.16(d)(3)].

VIII. Civil Penalty

72. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$24,054. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's *RCRA Civil Penalty Policy*, dated June 23, 2003.

73. Within 30 days after the effective date of this CAFO, Respondent must pay a \$24,054 civil penalty for the RCRA violations. Respondent may pay this penalty by certified or cashier's check, payable to "Treasurer, the United States of America," and remit to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

A copy of the check shall be sent to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Karen Peaceman
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

and,

Todd C. Brown
Land and Chemicals Division (LR-8J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

A transmittal letter identifying this Complaint shall accompany the remittance and the copy of the check.

74. This civil penalty is not deductible for tax purposes.

75. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

IX. General Provisions

76. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

77. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

78. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

79. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, the U.S. EPA's RCRA Civil Penalty Policy, and the U.S. EPA's Hazardous Waste Civil Enforcement Response

Policy (December 2003).

80. The terms of this CAFO bind Complainant and Respondent, its successors, and assigns.

81. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

82. Each party agrees to bear its own costs and attorney's fees in this action.

83. This CAFO constitutes the entire agreement between the parties.

For Big River Zinc Corporation



Signature

3 SEPTEMBER 2009
Date

GEORGE M. OBELDOBEL
Printed Name
For Big River Zinc Corporation
Sauget, Illinois; Respondent

PRESIDENT
Title

For the United States Environmental Protection Agency, Complainant


Margaret M. Guerriero
Director
Land and Chemicals Division

Sept. 23, 2009
Date

In the Matter of:
Big River Zinc
Docket No. RCRA-05-2009-0022

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9/24/09
Date

Walter W. Karaluz
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

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REGIONAL HEARING CLERK
USEPA
REGION 5

OFFICE OF REGIONAL
COUNSEL
SEP 24 2009
REGIONAL HEARING CLERK
USEPA
REGION 5

CASE NAME: **Big River Zinc Corporation**
DOCKET NO: RCRA RCRA-05-2009-0022

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:


Mr. George Obeldbel
President
Big River Zinc Corporation
2401 Mississippi Avenue
Sauget, Illinois 62201

Return Receipt # 7001 0320 0005 8915 4797

And via First Class Mail to:

Todd Marvel
Illinois Environmental Protection Agency
RCRA Coordinator
1021 North Grand Ave, East
Springfield, Illinois 62702

Dated: Sept 28, 2009


Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division - RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028

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SEP 28 2009

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