

NANCY MARVEL
Regional Counsel
United States Environmental Protection Agency, Region IX

DAVID H. KIM
Assistant Regional Counsel
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3882

Attorneys for Complainant

STEVEN G. BARRINGER
JOHN F. SHEPHERD
M. BENJAMIN MACHLIS
Holland & Hart LLP
975 F Street NW, Suite 900
Washington, D.C. 20004
(202) 393-6500

Attorneys for Respondent

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

RECEIVED BY OALJ
2012 SEP 11 PM 12:34

| | | |
|-----------------------|---|-------------------------------|
| _____ |) | Docket No. EPCRA-09-2011-0004 |
| In the Matter of: |) | |
| |) | |
| Barrick Cortez, Inc., |) | FOURTH JOINT MOTION |
| |) | FOR STAY |
| |) | |
| |) | |
| Respondent |) | |
| _____ |) | |

INTRODUCTION

This is a civil administrative action brought pursuant to Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for the assessment of a civil administrative penalty against Barrick Cortez, Inc. ("BCI") for 34 alleged violations of Section 313 of EPCRA, 42 U.S.C. § 11023.

MOTION

U.S. Environmental Protection Agency ("EPA"), Region IX, filed a complaint in the above-captioned matter on September 29, 2011. EPA filed the first amended complaint in the above-captioned matter on January 4, 2012. Respondent BCI filed its Answer and Request for Hearing on January 27, 2012. By order dated February 16, 2012, Administrative Law Judge M. Lisa Buschmann was assigned to this matter. On February 29, 2012, Judge Buschmann issued a pre-hearing order that established dates for the parties to submit a status report and prehearing exchange information.

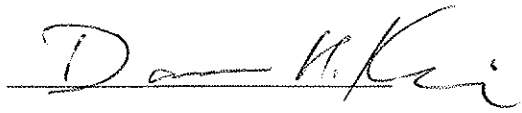
On March 12, 2012, the parties filed a Joint Motion for Stay, requesting that this matter be stayed so that the parties may engage in third-party mediation; this motion was granted on March 12, 2012, and this proceeding was stayed until May 11, 2012. On May 10, 2012, the parties filed a Second Joint Motion for Stay, requesting that the stay be extended for another 60 days so that the parties could continue mediation and fully resolve this matter; Judge Buschmann granted this motion on May 10, 2012, extending the stay until July 10, 2012. On July 6, 2012, the parties filed a Third Joint Motion for Stay, requesting that the stay be extended for another 60 days on the basis that the parties have reached an agreement in principle on civil penalty and several key issues but need additional time to resolve remaining issues and finalize a settlement. Judge Buschmann granted this motion on July 13, 2012, extending the stay until September 10,

2012.

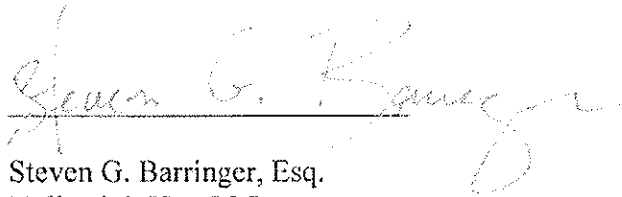
Since the Third Join Motion for Stay was granted, the parties have had additional settlement discussions and engaged in an all-day mediation in Washington, D.C., on September 5, 2012. The parties have significantly broadened the scope of the agreement in principle to address potential EPCRA § 313 claims at other facilities operated by Barrick Gold Corporation and its U.S. subsidiaries. Given the expanded scope and complexity of settlement, the parties need additional time to prepare the settlement documents and finalize the settlement.

Pursuant to 40 C.F.R. § 22.16(a), the parties hereby request that this matter be stayed for another 60 days to November 9, 2012 to allow the parties to finalize the settlement. A letter from the mediator that provides more details on the progress of settlement is also attached to this motion.

Dated at San Francisco, California on this 10 day of September, 2012.



David H. Kim, Esq.
Attorney for Complainant
USEPA, Region IX



Steven G. Barringer, Esq.
Holland & Hart LLP
975 F Street NW, Suite 900
Washington, D.C. 20004
(202) 393-6500
sgbarringer@hollandhart.com
Attorney for Respondent
Barrick Cortez, Inc.

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Fourth Joint Motion for Stay 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 Fourth Joint Motion for Stay was sent by pouch mail or the United States Mail addressed to the following:

The Honorable M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges (Mail Code 1900L)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

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

Dated: 9-10-2012

By: 

Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX



1201 NEW YORK AVENUE, N.W. SUITE 625
WASHINGTON, DC 20005
TEL: 202-289-3330 FAX: 202-289-1020

September 7, 2012

The Honorable M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges (Mail Code 1900L)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

Re: In the Matter of Barrick Cortez, Inc., Docket #09-2011-0004


Dear Judge Buschmann:

On April 2, 2012, the United States Environmental Protection Agency ("EPA") and Barrick Cortez, Inc./Barrick Gold Corporation ("Barrick") retained me to mediate an enforcement action brought by the EPA against Barrick. On April 18, 2012, the parties submitted confidential statements. An initial mediation session with the parties was held in San Francisco on May 2, 2012. A second meeting was held with the parties' experts in Denver on May 9, 2012. Two additional meetings were held on May 31st (by conference call) and on June 29th in Salt Lake City. The parties and I spoke frequently after the June 29th meeting and all participants met again this past Wednesday, September 5th, in Washington, DC for the purpose of finalizing several key terms in the agreement.

What initially began as an enforcement action at one mine has now evolved into a global settlement of all mines operated by the Barrick Gold Corporation, and its subsidiaries, in the United States. At this last meeting, the parties reached a final agreement in principle with respect to all material terms, although the details of some of these terms will need to be drafted. The mediation participants are now seeking approval of those terms from their organizations, which they anticipate receiving in the very near future. They will also be exchanging drafts of their agreement and attachments by the end of September. I believe it is in the interest of the Court to allow the parties the time they need to obtain final approval and to write up their agreement.

I would be pleased to provide the Court with additional non-substantive information about the mediation.

Very truly yours,


John Bickerman (mbt)