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U.S. EPA. REGION IX
REGIONAL HEARING CLERK

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

IN RE:

BARRICK CORTEZ INC.,

Respondent

DOCKET NO. EPCRA-9-2011-0004

**ANSWER AND REQUEST FOR
HEARING**

Barrick Cortez Inc. (“Barrick Cortez”) hereby answers the allegations and claims set forth in the First Amended Complaint and Notice of Opportunity for Hearing (“Amended Complaint”) and requests a hearing before an Administrative Law Judge, pursuant to 40 C.F.R. § 22.15(c), to contest the allegations in the Amended Complaint.

Barrick Cortez responds to the specific allegations in the Amended Complaint as follows. The paragraphs below are numbered to correspond to the numbered paragraphs in the Amended Complaint:

AUTHORITY AND PARTIES

1. Paragraph 1 states Complainant’s characterization of the proceedings and states conclusions of law to which no response is required. To the extent a response is required, Barrick Cortez admits that this action is brought pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045(c), and that Complainant is seeking civil administrative penalties. Barrick Cortez lacks sufficient knowledge or information to admit or deny that Complainant is the Director of the Communities and Ecosystems Division EPA, Region IX and has been duly delegated authority to bring this action. Barrick Cortez, therefore, denies the allegations in the second sentence of Paragraph 1.

2. Barrick Cortez admits that it is the respondent.

3. Paragraph 3 states Complainant's summary of the allegations set forth in the Amended Complaint regarding Barrick Cortez's compliance with Section 313 of EPCRA. Barrick Cortez denies that it has violated Section 313 of EPCRA.

4. Paragraph 4 states Complainant's summary of the allegations set forth in the Amended Complaint regarding Barrick Cortez's compliance with Section 313 of EPCRA. Barrick Cortez denies that it has violated Section 313 of EPCRA.

STATUTORY AND REGULATORY BACKGROUND

5. Barrick Cortez admits Paragraph 5.

6. Paragraph 6 contains Complainant's characterization of statutes and regulations to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's characterizations interpret the statutes and regulations, the allegations in Paragraph 6 are denied.

7. Paragraph 7 contains Complainant's characterization of statutes and regulations to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's characterizations interpret the statutes and regulations, the allegations in Paragraph 7 are denied.

GENERAL ALLEGATIONS

8. Barrick Cortez admits Paragraph 8.

9. Barrick Cortez admits Paragraph 9.

10. Barrick Cortez admits Paragraph 10.

11. Barrick Cortez denies the allegations in Paragraph 11.

VIOLATIONS

COUNT 1: Alleged Failure to Submit Timely Form R for Antimony Compounds for 2005

12. The responses to Paragraphs 1 – 11 are herein incorporated by reference.
13. Barrick Cortez denies Paragraph 13.
14. Barrick Cortez admits Paragraph 14.
15. Barrick Cortez admits Paragraph 15.
16. Barrick Cortez denies Paragraph 16.
17. Barrick Cortez admits that it did not submit a Form R for antimony compounds

for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for antimony compounds for calendar year 2005.

18. Barrick Cortez denies the allegations in Paragraph 18.

COUNT 2: Alleged Failure to Submit Timely Form R for Arsenic Compounds for 2005

19. The responses to Paragraphs 1 – 11 are herein incorporated by reference.
20. Barrick Cortez denies Paragraph 20.
21. Barrick Cortez admits Paragraph 21.
22. Barrick Cortez admits Paragraph 22.
23. Barrick Cortez denies Paragraph 23.
24. Barrick Cortez admits that it did not submit a Form R for arsenic compounds for

calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for arsenic compounds for calendar year 2005.

25. Barrick Cortez denies Paragraph 25.

COUNT 3: Alleged Failure to Submit Timely Form R for Barium Compounds for 2005

26. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

27. Barrick Cortez denies Paragraph 27.

28. Barrick Cortez admits Paragraph 28.

29. Barrick Cortez admits Paragraph 29.

30. Barrick Cortez denies Paragraph 30.

31. Barrick Cortez admits that it did not submit a Form R for barium compounds for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for barium compounds for calendar year 2005.

32. Barrick Cortez denies Paragraph 32.

Count 4: Alleged Failure to Submit Timely Form R for Cadmium Compounds for 2005

33. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

34. Barrick Cortez denies Paragraph 34.

35. Barrick Cortez admits Paragraph 35.

36. Barrick Cortez admits Paragraph 36.

37. Barrick Cortez denies Paragraph 37.

38. Barrick Cortez admits that it did not submit a Form R for cadmium compounds for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for cadmium compounds for calendar year 2005.

39. Barrick Cortez denies Paragraph 39.

COUNT 5: Alleged Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2005

40. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

41. Barrick Cortez denies Paragraph 41.

42. Barrick Cortez admits Paragraph 42.

43. Barrick Cortez admits Paragraph 43.

44. Barrick Cortez denies Paragraph 44.

45. Barrick Cortez admits that it did not submit a Form R for chromium compounds for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for chromium compounds for calendar year 2005.

46. Barrick Cortez denies Paragraph 46.

COUNT 6: Alleged Failure to Submit Timely Form R for Cobalt Compounds for 2005

47. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

48. Barrick Cortez denies Paragraph 48.

49. Barrick Cortez admits Paragraph 49.

50. Barrick Cortez admits Paragraph 50.

51. Barrick Cortez denies Paragraph 51.

52. Barrick Cortez admits that it did not submit a Form R for cobalt compounds for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for cobalt compounds for calendar year 2005.

53. Barrick Cortez denies Paragraph 53.

COUNT 7: Alleged Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2005

54. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

55. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 25,000 pounds of copper compounds were manufactured in 2005.

56. Barrick Cortez admits Paragraph 56.

57. Barrick Cortez admits Paragraph 57.

58. Paragraph 58 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 58 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

59. Barrick Cortez denies Paragraph 59.

60. Barrick Cortez denies Paragraph 60.

COUNT 8: Alleged Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2005

61. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

62. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 10,000 pounds of cyanide compounds were otherwise used in 2005.

63. Barrick Cortez admits Paragraph 63.

64. Barrick Cortez admits Paragraph 64.

65. Paragraph 65 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for

themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 65 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

66. Barrick Cortez denies Paragraph 66.

67. Barrick Cortez denies Paragraph 67.

COUNT 9: Alleged Failure to Submit Timely, Complete and Accurate Form R for Nickel

Compounds for 2005

68. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

69. Barrick Cortez denies Paragraph 69.

70. Barrick Cortez admits Paragraph 70.

71. Barrick Cortez admits Paragraph 71.

72. Barrick Cortez denies Paragraph 72.

73. Barrick Cortez admits that it did not submit a Form R for nickel compounds for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for nickel compounds for calendar year 2005.

74. Barrick Cortez denies Paragraph 74.

COUNT 10: Alleged Failure to Submit Timely, Complete and Accurate Form R for

Nitrate Compounds for 2005

75. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

76. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 25,000 pounds of nitrate compounds were manufactured in 2005.

77. Barrick Cortez admits Paragraph 77.

78. Barrick Cortez admits Paragraph 78.

79. Paragraph 79 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 79 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

80. Barrick Cortez denies Paragraph 80.

81. Barrick Cortez denies Paragraph 81.

COUNT 11: Alleged Failure to Submit Timely Form R for Thallium Compounds for 2005

82. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

83. Barrick Cortez denies Paragraph 83.

84. Barrick Cortez admits Paragraph 84.

85. Barrick Cortez admits Paragraph 85.

86. Barrick Cortez denies Paragraph 86.

87. Barrick Cortez admits that it did not submit a Form R for thallium compounds for calendar year 2005 to the EPA or the State of Nevada on or before July 3, 2006, but affirmatively states that it was not required to submit a Form R for thallium compounds for calendar year 2005.

88. Barrick Cortez denies Paragraph 88.

COUNT 12: Alleged Failure to Submit Timely Form R for Antimony Compounds for 2006

89. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

90. Barrick Cortez denies Paragraph 90.

91. Barrick Cortez admits Paragraph 91.

92. Barrick Cortez admits Paragraph 92.

93. Barrick Cortez denies Paragraph 93.

94. Barrick Cortez admits that it did not submit a Form R for antimony compounds for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for antimony compounds for calendar year 2006.

95. Barrick Cortez denies Paragraph 95.

COUNT 13: Alleged Failure to Submit Timely Form R for Arsenic Compounds for 2006

96. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

97. Barrick Cortez denies Paragraph 97.

98. Barrick Cortez admits Paragraph 98.

99. Barrick Cortez admits Paragraph 99.

100. Barrick Cortez denies Paragraph 100.

101. Barrick Cortez admits that it did not submit a Form R for arsenic compounds for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for arsenic compounds for calendar year 2006.

102. Barrick Cortez denies Paragraph 102.

COUNT 14: Alleged Failure to Submit Timely Form R for Barium Compounds for 2006

103. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

104. Barrick Cortez denies Paragraph 104.

105. Barrick Cortez admits Paragraph 105.

106. Barrick Cortez admits Paragraph 106.

107. Barrick Cortez denies Paragraph 107.

108. Barrick Cortez admits that it did not submit a Form R for barium compounds for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for barium compounds for calendar year 2006.

109. Barrick Cortez denies Paragraph 109.

COUNT 15: Alleged Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2006

110. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

111. Barrick Cortez denies Paragraph 111.

112. Barrick Cortez admits Paragraph 112.

113. Barrick Cortez admits Paragraph 113.

114. Barrick Cortez denies Paragraph 114.

115. Barrick Cortez admits that it did not submit a Form R for chromium compounds for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for chromium compounds for calendar year 2006.

116. Barrick Cortez denies Paragraph 116.

COUNT 16: Alleged Failure to Submit Timely Form R for Cobalt Compounds for 2006

117. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

118. Barrick Cortez denies Paragraph 118.

119. Barrick Cortez admits Paragraph 119.

120. Barrick Cortez admits Paragraph 120.

121. Barrick Cortez denies Paragraph 121.

122. Barrick Cortez admits that it did not submit a Form R for cobalt compounds for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for cobalt compounds for calendar year 2006.

123. Barrick Cortez denies Paragraph 123.

COUNT 17: Alleged Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2006

124. The responses to Paragraphs I – II are herein incorporated by reference.

125. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 25,000 pounds of copper compounds were manufactured in 2006.

126. Barrick Cortez admits Paragraph 126.

127. Barrick Cortez admits Paragraph 127.

128. Paragraph 128 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 128 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

129. Barrick Cortez denies Paragraph 129.

130. Barrick Cortez denies Paragraph 130.

COUNT 18: Alleged Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2006

131. The responses to Paragraphs I – II are herein incorporated by reference.

132. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 10,000 pounds of cyanide compounds were otherwise used in 2006.

133. Barrick Cortez admits Paragraph 133.

134. Barrick Cortez admits Paragraph 134.

135. Paragraph 135 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 135 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

136. Barrick Cortez denies Paragraph 136.

137. Barrick Cortez denies Paragraph 137.

COUNT 19: Alleged Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2006

138. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

139. Barrick Cortez denies Paragraph 139.

140. Barrick Cortez admits Paragraph 140.

141. Barrick Cortez admits Paragraph 141.

142. Barrick Cortez denies the allegations in Paragraph 142.

143. Barrick Cortez admits that it did not submit a Form R for nickel compounds for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for nickel compounds for calendar year 2006.

144. Barrick Cortez denies Paragraph 144.

COUNT 20: Alleged Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2006

145. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

146. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 25,000 pounds of nitrate compounds were manufactured in 2006.

147. Barrick Cortez admits Paragraph 147.

148. Barrick Cortez admits Paragraph 148.

149. Paragraph 149 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 149 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

150. Barrick Cortez denies Paragraph 150.

151. Barrick Cortez denies Paragraph 151.

COUNT 21: Alleged Failure to Submit Timely Form R for Selenium for 2006

152. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

153. Barrick Cortez denies Paragraph 153.

154. Barrick Cortez admits Paragraph 154.

155. Barrick Cortez admits Paragraph 155.

156. Barrick Cortez denies Paragraph 156.

157. Barrick Cortez admits that it did not submit a Form R for selenium for calendar year 2006 to the EPA or the State of Nevada on or before July 2, 2007, but affirmatively states that it was not required to submit a Form R for selenium for calendar year 2006.

158. Barrick Cortez denies Paragraph 158.

COUNT 22: Alleged Failure to Submit Timely Form R for Antimony Compounds for 2007

159. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

160. Barrick Cortez denies Paragraph 160.

161. Barrick admits Paragraph 161.

162. Barrick admits Paragraph 162.

163. Barrick Cortez denies Paragraph 163.

164. Barrick Cortez admits that it did not submit a Form R for antimony compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for antimony compounds for calendar year 2007.

165. Barrick Cortez denies Paragraph 165.

COUNT 23: Alleged Failure to Submit Timely, Complete and Accurate Form R for Arsenic Compounds for 2007

166. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

167. Barrick Cortez admits that its reasonable revised estimates based on available data at the time indicated that over 25,000 pounds of arsenic compounds were manufactured in 2007.

168. Barrick Cortez admits Paragraph 168.

169. Barrick Cortez admits Paragraph 169.

170. Paragraph 170 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 170 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

171. Barrick Cortez denies Paragraph 171.

172. Barrick Cortez denies Paragraph 172.

COUNT 24: Alleged Failure to Submit Timely Form R for Barium Compounds for 2007

173. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

174. Barrick Cortez denies Paragraph 174.

175. Barrick Cortez admits Paragraph 175.

176. Barrick Cortez admits Paragraph 176.

177. Barrick Cortez denies Paragraph 177.

178. Barrick Cortez admits that it did not submit a Form R for barium compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for barium compounds for calendar year 2007.

179. Barrick Cortez denies Paragraph 179.

COUNT 25: Alleged Failure to Submit Timely Form R for Cadmium Compounds for 2007

180. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

181. Barrick Cortez denies Paragraph 181.

182. Barrick Cortez admits Paragraph 182.

183. Barrick Cortez admits Paragraph 183.

184. Barrick Cortez denies Paragraph 184.

185. Barrick Cortez admits that it did not submit a Form R for cadmium compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for cadmium compounds for calendar year 2007.

186. Barrick Cortez denies Paragraph 186.

COUNT 26: Alleged Failure to Submit Timely Form R for Chromium Compounds for 2007

187. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

188. Barrick Cortez denies Paragraph 188.

189. Barrick Cortez admits Paragraph 189.

190. Barrick Cortez admits Paragraph 190.

191. Barrick Cortez denies the allegations in Paragraph 191.

192. Barrick Cortez admits that it did not submit a Form R for chromium compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for chromium compounds for calendar year 2007.

193. Barrick Cortez denies Paragraph 193

COUNT 27: Alleged Failure to Submit Timely Form R for Cobalt Compounds for 2007

194. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

195. Barrick Cortez denies Paragraph 195.

196. Barrick Cortez admits Paragraph 196.

197. Barrick Cortez admits Paragraph 197.

198. Barrick Cortez denies Paragraph 198.

199. Barrick Cortez admits that it did not submit a Form R for cobalt compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for cobalt compounds for calendar year 2007.

200. Barrick Cortez denies Paragraph 200.

COUNT 28: Alleged Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2007

201. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

202. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 25,000 pounds of copper compounds were manufactured in 2007.

203. Barrick Cortez admits Paragraph 202.

204. Barrick Cortez admits Paragraph 203.

205. Paragraph 205 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 205 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

206. Barrick Cortez denies Paragraph 206.

207. Barrick Cortez denies Paragraph 207.

COUNT 29: Alleged Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

208. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

209. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 10,000 pounds of cyanide compounds were otherwise used in 2007.

210. Barrick Cortez admits Paragraph 210.

211. Barrick Cortez admits Paragraph 211.

212. Paragraph 212 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for

themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 212 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

213. Barrick Cortez denies Paragraph 213.

214. Barrick Cortez denies Paragraph 214.

COUNT 30: Alleged Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2007

215. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

216. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 100 pounds of lead compounds were processed in 2007.

217. Barrick Cortez admits Paragraph 217.

218. Barrick Cortez admits Paragraph 218.

219. Paragraph 219 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 219 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

220. Barrick Cortez denies Paragraph 220.

221. Barrick Cortez denies Paragraph 221.

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

222. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

223. Barrick Cortez admits that its reasonable estimates based on available data at the time indicated that over 10 pounds of mercury compounds were manufactured in 2007.

224. Barrick Cortez admits Paragraph 224.

225. Barrick Cortez admits Paragraph 225.

226. Paragraph 226 states a conclusion of law to which no response is required. To the extent a response is required Barrick Cortez states that the statutes and regulations speak for themselves, and insofar as Complainant's allegations are inconsistent with the statutes and regulations, the allegations in Paragraph 226 are denied. Barrick Cortez affirmatively states that it filed a Form R in compliance with the statute and regulations.

227. Barrick Cortez denies Paragraph 227.

228. Barrick Cortez denies Paragraph 228.

COUNT 32: Alleged Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2007

229. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

230. Barrick Cortez denies Paragraph 230.

231. Barrick Cortez admits Paragraph 231.

232. Barrick Cortez admits Paragraph 232.

233. Barrick Cortez denies Paragraph 233.

234. Barrick Cortez admits that it did not submit a Form R for nickel compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for nickel compounds for calendar year 2007.

235. Barrick Cortez denies Paragraph 235.

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

236. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

237. Barrick Cortez admits that its reasonable revised estimates based on available data at the time indicated that over 25,000 pounds of nitrate compounds were manufactured in 2007.

238. Barrick Cortez admits Paragraph 238.

239. Barrick Cortez admits Paragraph 239.

240. Barrick Cortez denies Paragraph 240.

241. Barrick Cortez admits that it did not submit a Form R for nitrate compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to do so. Nonetheless, based on reasonable estimates after July 1, 2008, Barrick Cortez voluntarily submitted a Form R for nitrate compounds for calendar year 2007 on June 8, 2009.

242. Barrick Cortez denies Paragraph 242.

Count 34: Alleged Failure to Submit Timely Form R for Vanadium Compounds

243. The responses to Paragraphs 1 – 11 are herein incorporated by reference.

244. Barrick Cortez denies Paragraph 244.

245. Barrick Cortez admits Paragraph 245.

246. Barrick Cortez admits Paragraph 246.

247. Barrick Cortez denies Paragraph 247.

248. Barrick Cortez admits that it did not submit a Form R for vanadium compounds for calendar year 2007 to the EPA or the State of Nevada on or before July 1, 2008, but affirmatively states that it was not required to submit a Form R for vanadium compounds for calendar year 2007.

249. Barrick Cortez denies Paragraph 249.

250. Barrick Cortez denies each and every allegation in the Amended Complaint not expressly admitted above.

AFFIRMATIVE DEFENSES

Barrick Cortez asserts the following affirmative defenses, and expressly reserves the right to amend this Answer to raise additional affirmative defenses.

1. The Amended Complaint should be dismissed pursuant to 40 C.F.R. § 22.20(a) because Complainant has failed to establish any grounds showing a right to relief, in particular, that it may impose penalties on Barrick Cortez for its reporting under EPCRA for the years 2005-07.

2. Barrick Cortez acted reasonably and in good faith and in compliance with EPCRA's reporting requirements by using readily available data and reasonable estimates for the amounts of chemicals involved.

3. The Amended Complaint constitutes agency action that is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law and in excess of statutory authority under the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 500 *et seq.*

4. The Amended Complaint violates principles of administrative law by seeking to impose penalties for the alleged violation of a rule without first providing adequate notice of the substance of the rule as required by the APA.

5. The Amended Complaint violates the due process clause of the Constitution by seeking to impose penalties for the alleged violation of a statute and regulations that are not sufficiently specific to give regulated parties adequate notice of the conduct they require or prohibit.

6. To the extent the Amended Complaint seeks to impose penalties based on interpretations of law that are inconsistent with *Barrick v. Whitman*, 260 F.Supp. 2d 28 (D. D.C. 2003), the Amended Complaint is barred by the doctrines of res judicata and collateral estoppel.

7. Complainant filed the initial Complaint in this matter over three years after its inspection of Barrick Cortez; because of the delay in initiating this action the allegations in the Amended Complaint are barred by the doctrines of equitable estoppel and laches.

PROPOSED CIVIL PENALTY

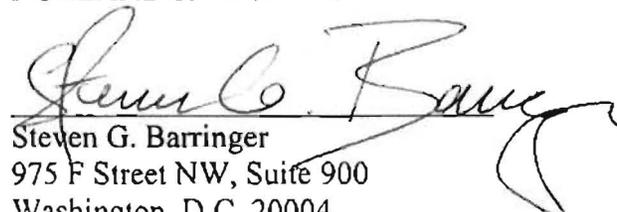
The Amended Complaint is deficient and should be dismissed because it does not propose any specific penalty, nor does it contain “the number of violations (where applicable, days of violation) for which a penalty is sought [and] a brief explanation of the severity of each violation alleged” as required by 40 C.F.R. § 22.14(a)(4). Furthermore, the facts of this case do not warrant imposition of any penalty against Barrick Cortez. Barrick Cortez reserves the right to raise additional defenses and arguments to any civil penalty sought, if and when Complainant specifies the grounds for and penalties sought in this case.

HEARING REQUEST

Pursuant to 40 C.F.R. § 22.15(c), Barrick Cortez requests a hearing on the issues raised by the Amended Complaint and this Answer.

Respectfully submitted this 29th day of January 2012.

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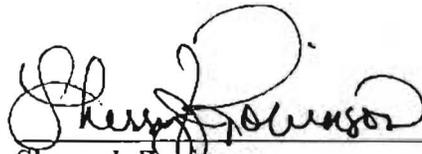
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Cortez, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on January ~~30~~, 2011, I filed the foregoing **ANSWER AND REQUEST FOR A HEARING**, Docket Number EPCRA-09-2011-0004 with the Regional Hearing Clerk, U.S. EPA, Region IX, and that a true and correct copy thereof was emailed and mailed via the U.S. Postal Service to:

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