

FILED

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

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U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL HEARING OFFICE

IN RE:	)	
	)	DOCKET NO. EPCRA-9-2011-00 <u>04</u>
	)	
BARRICK CORTEZ, INC.,	)	COMPLAINT AND NOTICE OF
	)	OPPORTUNITY FOR HEARING
	)	
RESPONDENT	)	
_____	)	

AUTHORITY AND PARTIES

1. 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 assessment of a civil administrative penalty against Barrick Cortez, Inc. Complainant is the Director of the Communities and Ecosystems Division, EPA, Region IX, who has been duly delegated the authority to bring this action.
2. Respondent is Barrick Cortez, Inc. of Crescent Valley, Nevada ("Respondent").
3. Complainant will allege that Respondent violated Section 313 of EPCRA by failing to timely report its manufacturing of antimony compounds for calendar years 2005 through 2007, arsenic compounds for calendar years 2005 and 2006, barium compounds for calendar years 2005 through 2007, cadmium compounds for calendar years 2005 and 2007, chromium compounds for calendar year 2007, cobalt compounds for calendar years 2005 through 2007, manganese compounds for calendar years 2006 and 2007, nitrate compounds for calendar year 2007, thallium compounds for calendar year 2005, and vanadium compounds for

calendar year 2007; and its processing of selenium for calendar year 2006.

4. Complainant will allege that Respondent violated Section 313 of EPCRA by failing to accurately report its manufacturing of arsenic compounds for calendar year 2007; manufacturing of chromium compounds for calendar years 2005 and 2006; manufacturing of copper compounds for calendar years 2005 through 2007; otherwise use of cyanide compounds for calendar years 2005 through 2007; processing of lead compounds for calendar year 2007; manufacturing of manganese compounds for calendar year 2005; manufacturing of mercury compounds for calendar year 2007; manufacturing of nickel compounds for calendar years 2005 through 2007; and manufacturing of nitrate compounds for calendar years 2005 and 2006.

#### STATUTORY AND REGULATORY BACKGROUND

5. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for the submission of information relating to the release of toxic chemicals under Section 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.
6. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. §§ 372.22 and 372.30, provides that the owner or operator of a facility that (i) has ten or more full-time employees, (ii) is in Standard Industrial Classification Codes 20 through 39, and (iii) manufactured, processed, or otherwise used one or more toxic chemicals listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.28 and 372.65, must submit to EPA and the State in which the facility is located a chemical release form published under Section 313(g) of EPCRA for each such toxic chemical.

7. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a “Form R”) for facilities that are subject to the reporting requirements of Section 313. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that a complete and accurate Form R for activities involving a toxic chemical that occurred during a calendar year must be submitted on or before July 1 of the next year.

#### GENERAL ALLEGATIONS

8. Respondent is a Delaware corporation and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
9. At all times relevant to this matter, Respondent operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located near Crescent Valley, Nevada (hereinafter referred to as the “Facility”).
10. At all times relevant to this matter, the Facility had 10 or more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.
11. At all times relevant to this matter, the Facility was in Standard Industrial Classification Codes 20 through 39.

#### VIOLATIONS

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

12. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
13. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of antimony compounds (N010), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
14. Antimony compounds (N010) is a toxic chemical listed under 40 C.F.R. § 372.65.
15. The threshold for reporting antimony compounds “manufactured” at the 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.

16. Respondent was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
17. Respondent failed to submit a Form R for antimony compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
18. Respondent's failure to submit a Form R for antimony compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

19. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
20. During the calendar year 2005, Respondent "manufactured" over 25,000 pounds of arsenic compounds (N020), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
21. Arsenic compounds (N020) is a toxic chemical listed under 40 C.F.R. § 372.65.
22. The threshold for reporting arsenic compounds "manufactured" at the 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.
23. Respondent was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
24. Respondent failed to submit a Form R for arsenic compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
25. Respondent's failure to submit a Form R for arsenic compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42

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

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

26. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
27. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of barium compounds (N040), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
28. Barium compounds (N040) is a toxic chemical listed under 40 C.F.R. § 372.65.
29. The threshold for reporting barium compounds “manufactured” at the 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.
30. Respondent was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
31. Respondent failed to submit a Form R for barium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
32. Respondent’s failure to submit a Form R for barium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

33. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
34. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of cadmium compounds (N078), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
35. Cadmium compounds (N078) is a toxic chemical listed under 40 C.F.R. § 372.65.
36. The threshold for reporting cadmium compounds “manufactured” at the 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.

37. Respondent was required to submit a complete and accurate Form R for cadmium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
38. Respondent failed to submit a Form R for cadmium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
39. Respondent's failure to submit a Form R for cadmium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

40. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
41. During the calendar year 2005, Respondent "manufactured" over 25,000 pounds of chromium compounds (N090), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
42. Chromium compounds (N090) is a toxic chemical listed under 40 C.F.R. § 372.65.
43. The threshold for reporting chromium compounds "manufactured" at the 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.
44. Respondent was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
45. Respondent failed to submit a complete and accurate Form R for chromium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
46. Respondent's failure to submit a complete and accurate Form R for chromium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates

Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

47. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
48. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of cobalt compounds (N096), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
49. Cobalt compounds (N096) is a toxic chemical listed under 40 C.F.R. § 372.65.
50. The threshold for reporting cobalt compounds “manufactured” at the 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.
51. Respondent was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
52. Respondent failed to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
53. Respondent’s failure to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

54. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
55. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of copper compounds (N100), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
56. Copper compounds (N100) is a toxic chemical listed under 40 C.F.R. § 372.65.
57. The threshold for reporting copper compounds “manufactured” at the 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.

58. Respondent was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
59. Respondent failed to submit a complete and accurate Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
60. Respondent's failure to submit a complete and accurate Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

61. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
62. During the calendar year 2005, Respondent "otherwise used" over 10,000 pounds of cyanide compounds (N106), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
63. Cyanide compounds (N106) is a toxic chemical listed under 40 C.F.R. § 376.65.
64. The threshold for reporting cyanide compounds "otherwise used" at the 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.
65. Respondent was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
66. Respondent failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
67. Respondent's failure to submit a complete and accurate Form R for cyanide compounds for



calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 9: Failure to Submit Timely, Complete and Accurate Form Rs for Manganese Compounds for 2005

68. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
69. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of manganese compounds (N450), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
70. Manganese compounds (N450) is a toxic chemical listed under 40 C.F.R. § 372.65.
71. The threshold for reporting manganese compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
72. Respondent was required to submit a complete and accurate Form R for manganese compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
73. Respondent failed to submit a complete and accurate Form R for manganese compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
74. Respondent’s failure to submit a complete and accurate Form R for manganese compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 10: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2005

75. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
76. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of nickel compounds (N495), as that term is defined in 40 C.F.R. § 372.3, at the Facility.

77. Nickel compounds (N495) is a toxic chemical listed under 40 C.F.R. § 372.65.
78. The threshold for reporting nickel compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
79. Respondent was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
80. Respondent failed to submit a complete and accurate Form R for nickel compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
81. Respondent’s failure to submit a complete and accurate Form R for nickel compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 11: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2005

82. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
83. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of nitrate compounds (N511), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
84. Nitrate compounds (N511) is a toxic chemical listed under 40 C.F.R. § 372.65.
85. The threshold for reporting nitrate compounds “manufactured” at the 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.
86. Respondent was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
87. Respondent failed to submit a complete and accurate Form R for nitrate compounds for

calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.

88. Respondent's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 12: Failure to Submit Timely Form Rs for Thallium Compounds for 2005

89. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
90. During the calendar year 2005, Respondent "manufactured" over 25,000 pounds of thallium compounds (N760), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
91. Thallium compounds (N760) is a toxic chemical listed under 40 C.F.R. § 372.65.
92. The threshold for reporting thallium compounds "manufactured" at the 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.
93. Respondent was required to submit a complete and accurate Form R for thallium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
94. Respondent failed to submit a Form R for thallium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
95. Respondent's failure to submit a Form R for thallium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

96. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
97. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.

98. Antimony compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
99. The threshold for reporting antimony compounds “manufactured” at the 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.
100. Respondent was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
101. Respondent failed to submit a Form R for antimony compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
102. Respondent’s failure to submit a Form R for antimony compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

103. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
104. During the calendar year 2006, Respondent “manufactured” over 25,000 pounds of arsenic compounds (N020), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
105. Arsenic compounds (N020) is a toxic chemical listed under 40 C.F.R. § 372.65.
106. The threshold for reporting arsenic compounds “manufactured” at the 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.
107. Respondent was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
108. Respondent failed to submit a Form R for arsenic compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.

109. Respondent's failure to submit a Form R for arsenic compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 15: Failure to Submit Timely Form R for Barium Compounds for 2006

110. Paragraphs 1 through 11 are realleged and incorporated by reference herein.

111. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.

112. Barium compounds is a toxic chemical listed under 40 C.F.R. § 372.65.

113. The threshold for reporting barium compounds "manufactured" at the 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.

114. Respondent was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.

115. Respondent failed to submit a Form R for barium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.

116. Respondent's failure to submit a Form R for barium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 16: Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2006

117. Paragraphs 1 through 11 are realleged and incorporated by reference herein.

118. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of chromium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.

119. Chromium compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
120. The threshold for reporting chromium compounds “manufactured” at the 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.
121. Respondent was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
122. Respondent failed to submit a complete and accurate Form R for chromium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
123. Respondent’s failure to submit a complete and accurate Form R for chromium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 17: Failure to Submit Timely Form R for Cobalt Compounds for 2006

124. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
125. During the calendar year 2006, Respondent “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
126. Cobalt compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
127. The threshold for reporting cobalt compounds “manufactured” at the 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.
128. Respondent was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
129. Respondent failed to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.

130. Respondent's failure to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

131. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
132. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
133. Copper compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
134. The threshold for reporting copper compounds "manufactured" at the 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.
135. Respondent was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
136. Respondent failed to submit a complete and accurate Form R for copper compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
137. Respondent's failure to submit a complete and accurate Form R for copper compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

138. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
139. During the calendar year 2006, Respondent "otherwise used" over 10,000 pounds of cyanide

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

140. Cyanide compounds is a toxic chemical listed under 40 C.F.R. § 376.65.
141. The threshold for reporting cyanide compounds “otherwise used” at the 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.
142. Respondent was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
143. Respondent failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
144. Respondent’s failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 20: Failure to Submit Timely Form R for Manganese Compounds for 2006

145. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
146. During the calendar year 2006, Respondent “manufactured” over 25,000 pounds of manganese compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
147. Manganese compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
148. The threshold for reporting manganese compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
149. Respondent was required to submit a complete and accurate Form R for manganese compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
150. Respondent failed to submit a Form R for manganese compounds for calendar year 2006 to



EPA and the State of Nevada on or before July 2, 2007.

151. Respondent's failure to submit a Form R for manganese compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 21: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2006

152. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
153. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of nickel compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
154. Nickel compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
155. The threshold for reporting nickel compounds "manufactured" at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
156. Respondent was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
157. Respondent failed to submit a complete and accurate Form R for nickel compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
158. Respondent's failure to submit a complete and accurate Form R for nickel compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 22: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2006

159. Paragraphs 1 through 11 are realleged and incorporated by reference herein.

160. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
161. Nitrate compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
162. The threshold for reporting nitrate compounds "manufactured" at the 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.
163. Respondent was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
164. Respondent failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
165. Respondent's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 23: Failure to Submit Timely Form R for Selenium for 2006

166. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
167. During the calendar year 2006, Respondent "processed" over 25,000 pounds of selenium (7782-49-2), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
168. Selenium (7782-49-2) is a toxic chemical listed under 40 C.F.R. § 372.65.
169. The threshold for reporting selenium "processed" at the 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.
170. Respondent was required to submit a complete and accurate Form R for selenium to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
171. Respondent failed to submit a Form R for selenium for calendar year 2006 to EPA and the

State of Nevada on or before July 2, 2007.

172. Respondent's failure to submit a Form R for selenium for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

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

173. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
174. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
175. Antimony compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
176. The threshold for reporting antimony compounds "manufactured" at the 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.
177. Respondent 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.
178. Respondent 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.
179. Respondent'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 25: Failure to Submit Timely, Complete and Accurate Form R for Arsenic Compounds for 2007

180. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
181. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of arsenic

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

182. Arsenic compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
183. The threshold for reporting arsenic compounds “manufactured” at the 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.
184. Respondent 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.
185. Respondent failed to submit a complete and accurate Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
186. Respondent’s failure to submit a complete and accurate 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 26: Failure to Submit Timely Form R for Barium Compounds for 2007

187. Paragraphs I through 11 are realleged and incorporated by reference herein.
188. During the calendar year 2007, Respondent “manufactured” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
189. Barium compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
190. The threshold for reporting barium compounds “manufactured” at the 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.
191. Respondent 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.
192. Respondent 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.

193. Respondent'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 27: Failure to Submit Timely Form R for Cadmium Compounds for 2007

194. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
195. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of cadmium compounds (N078), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
196. Cadmium compounds (N078) is a toxic chemical listed under 40 C.F.R. § 372.65.
197. The threshold for reporting cadmium compounds "manufactured" at the 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.
198. Respondent was required to submit a complete and accurate Form R for cadmium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
199. Respondent failed to submit a Form R for cadmium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
200. Respondent's failure to submit a Form R for cadmium 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 28: Failure to Submit Timely Form R for Chromium Compounds for 2007

201. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
202. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of chromium compounds (N090), as that term is defined in 40 C.F.R. § 372.3, at the Facility.

203. Chromium compounds (N090) is a toxic chemical listed under 40 C.F.R. § 372.65.
204. The threshold for reporting chromium compounds “manufactured” at the 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.
205. Respondent 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.
206. Respondent 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.
207. Respondent’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 29: Failure to Submit Timely Form R for Cobalt Compounds for 2007

208. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
209. During the calendar year 2007, Respondent “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
210. Cobalt compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
211. The threshold for reporting cobalt compounds “manufactured” at the 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.
212. Respondent was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
213. Respondent failed to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

214. Respondent's failure to submit a Form R for cobalt 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 30: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2007

215. Paragraphs 1 through 11 are realleged and incorporated by reference herein.

216. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.

217. Copper compounds is a toxic chemical listed under 40 C.F.R. § 372.65.

218. The threshold for reporting copper compounds "manufactured" at the 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.

219. Respondent 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.

220. Respondent failed to submit a complete and accurate Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

221. Respondent's failure to submit a complete and accurate 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 31: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

222. Paragraphs 1 through 11 are realleged and incorporated by reference herein.

223. During the calendar year 2007, Respondent "otherwise used" over 10,000 pounds of cyanide

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

224. Cyanide compounds is a toxic chemical listed under 40 C.F.R. § 376.65.
225. The threshold for reporting cyanide compounds “otherwise used” at the 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.
226. Respondent 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.
227. Respondent 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.
228. Respondent’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 32: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2007

229. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
230. During the calendar year 2007, Respondent “processed” over 100 pounds of lead compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
231. Lead compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
232. The threshold for reporting lead compounds “processed” at the 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.
233. Respondent was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
234. Respondent failed to submit a complete and accurate Form R for lead compounds for



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

235. Respondent's failure to submit a complete and accurate Form R for lead 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 Manganese Compounds for 2007

236. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
237. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of manganese compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
238. Manganese compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
239. The threshold for reporting manganese compounds "manufactured" at the 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.
240. Respondent was required to submit a complete and accurate Form R for manganese compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
241. Respondent failed to submit a Form R for manganese compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
242. Respondent's failure to submit a Form R for manganese 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 34: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

243. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
244. During the calendar year 2007, Respondent "manufactured" over 10 pounds of mercury

compounds (N458), as that term is defined in 40 C.F.R. § 372.3, at the Facility.

245. Mercury compounds (N458) is a toxic chemical listed under 40 C.F.R. § 372.65.
246. The threshold for reporting mercury compounds “manufactured” at the 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.
247. Respondent 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.
248. Respondent 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.
249. Respondent’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 35: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2007

250. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
251. During the calendar year 2007, Respondent “manufactured” over 25,000 pounds of nickel compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
252. Nickel compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
253. The threshold for reporting nickel compounds “manufactured” at the 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.
254. Respondent 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.

255. Respondent 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.
256. Respondent'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 36: Failure to Submit Timely Form R for Nitrate Compounds for 2007

257. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
258. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
259. Nitrate compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
260. The threshold for reporting nitrate compounds "manufactured" at the 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.
261. Respondent 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.
262. Respondent 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.
263. Respondent'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 37: Failure to Submit Timely Form R for Vanadium Compounds for 2007

264. Paragraphs 1 through 11 are realleged and incorporated by reference herein.
265. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of vanadium

- compounds (N770), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
266. Vanadium compounds (N770) is a toxic chemical listed under 40 C.F.R. § 372.65.
267. The threshold for reporting vanadium compounds “manufactured” at the 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.
268. Respondent 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.
269. Respondent 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.
270. Respondent’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.

#### PROPOSED CIVIL PENALTY

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), 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 Section 313. 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 Respondent a civil administrative penalty of up to \$32,500 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 thirty (30) days of receipt of this Complaint. In the event that you intend to request a hearing to contest any material facts set forth in the Complaint, to dispute the amount of the penalty proposed in the Complaint, or to assert a claim for judgment as a matter of law, you must file a written Answer to this Complaint with the Regional Hearing Clerk at the above address within thirty (30) days of receipt of this 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 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 Complaint with the Regional Hearing Clerk within thirty (30) days of receipt, such failure shall constitute an admission of all facts alleged in the 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:

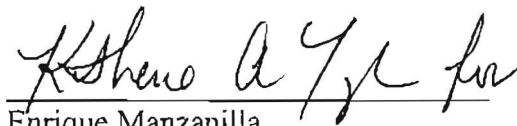
David H. Kim  
Assistant Regional Counsel (ORC-3)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

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 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 28 day of September, 2011.

A handwritten signature in cursive script, appearing to read "Enrique Manzanilla".

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

**CERTIFICATE OF SERVICE**

I certify that the original and foregoing Complaint and Notice of Opportunity for Hearing, Docket Number EPCRA-09-2011-~~0004~~<sup>0004</sup>, was filed on September 29, 2011, with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of:

- (1) the Complaint;
- (2) the Consolidated Rules of Practice, 40 C.F.R. Part 22; and
- (3) the Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-To-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended), dated April 12, 2001

were placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

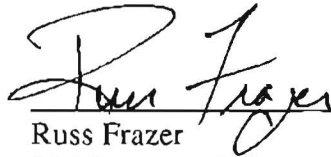
Kitt M. Dale  
Acting General Manager  
Barrick Cortez, Inc.  
Star Route HC 66, Box 1250  
Crescent Valley, NV 89821-1250  
Certified Return Receipt Article No: 7010 1060 0002 0234 7052

Patrick Malone, Esq.  
Barrick Gold Corporation  
136 East South Temple, Suite 1800  
Salt Lake City, UT 84111  
Certified Return Receipt Article No: 7010 1060 0002 0234 7069

Steven G. Barringer, Esq.  
Holland & Hart, LLP  
975 F Street NW, Suite 900  
Washington, D.C. 20004  
Certified Return Receipt Article No: 7010 1060 0002 0234 7076



Dated: 9/29/11



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Russ Frazer  
TRI Program Enforcement Officer, Toxics Office  
Communities and Ecosystems Division  
United States Environmental Protection Agency  
Region IX



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

SEP 29 2011

Certified Mail Number: 7010 1060 0002 0234 7052

Return Receipt Requested

Kitt M. Dale  
Acting General Manager  
**Barrick Cortez, Inc.**  
Star Route HC 66, Box 1250  
Crescent Valley, NV 89821-1250

Re: Complaint and Notice of Opportunity for Hearing  
Docket No. EPCRA-09-2011-~~0004~~

Dear Mr. Dale:

Enclosed please find a Complaint and Notice of Opportunity for Hearing concerning violations of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 USC Section 11001 et seq.

The Complaint and Rules of Practice, 40 C.F.R. Part 22, set forth the alternatives available to you in responding to the alleged facts, violations, proposed penalty, and opportunity for a hearing. It should be emphasized that, if you wish to request a hearing and avoid being found in default, you must file a written Answer within thirty (30) days of your receipt of the Complaint.

Whether or not you choose to request a hearing, you are encouraged to explore the possibility of settlement by contacting David Kim, Office of Regional Counsel, U. S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105; telephone number (415) 972-3882.

Sincerely,

A handwritten signature in cursive script, appearing to read "Enrique Manzanilla".

Enrique Manzanilla, Director  
Communities and Ecosystems Division

cc: Patrick Malone, Esq., Barrick Gold Corporation  
Steven G. Barringer, Esq., Holland & Hart, LLP

Enclosure