UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, California 94105

** FILED **
19JAN2018 - 10:35AM
U.S.EPA - Region 09

IN THE MATTER OF:	)	DOCKET NO. CWA-09-2018-0002
	)	
Double R Trading, Inc.	)	
City of Industry, CA.	)	**COMPLAINT, CONSENT AGREEMENT AND PROPOSED FINAL ORDER**
	)	
Respondent.	)	
	)	*Class II Administrative Penalty Proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18*
	)	
	)	
	)	

CONSENT AGREEMENT AND FINAL ORDER

I. AUTHORITY AND PARTIES

1. This is a Class II civil administrative penalty proceeding under Section 309(g)(1)(A) and 2(B) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(1)(A) and 2(B), and 40 C.F.R. Part 22 (*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*).

2. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency (EPA) is authorized to assess administrative penalties against persons who violate Section 301(a) of the Act, 33 U.S.C. § 1311 (a). The Administrator has delegated this authority to the Regional Administrator of the EPA Region IX, who in turn has delegated this authority to the Assistant Director of the Enforcement Division, hereinafter "Complainant."

3. Respondent is Double R Trading, Inc ("Respondent").

4. This Consent Agreement and Final Order (CA/FO), which contains the elements of a complaint required by 40 C.F. R. § 22.14(a), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

NOW THEREFORE, before the taking of any testimony, without adjudication of any issue of fact or law, and upon consent by the EPA and Respondent, it is hereby STIPULATED, AGREED, AND ORDERED:

II. STATUTORY AND REGULATORY FRAMEWORK

5. CWA Section 301(a), 33 U.S.C. § 1311(a), makes it unlawful for a person to discharge pollutants from a point source into waters of the United States, except as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

6. CWA Section 402, 33 U.S.C. § 1342, establishes the NPDES program and authorizes the EPA and authorized states to issue permits governing the discharge of pollutants from point sources into waters of the United States and CWA Section 402(p), 33 U.S.C. § 1342(p) requires that NPDES permits be issued for stormwater discharges "associated with industrial activity."

7. 40 C.F.R. § 122.26(b)(14)(xi) defines stormwater discharges associated with industrial activity to include plastic product manufacturing classified under SIC Major Group 30.

8. Pursuant to CWA § 402(p)(4), dischargers of stormwater associated with industrial activity are required to seek coverage under a promulgated general permit or seek individual permit coverage.

9. The State of California has an EPA-authorized NPDES program and issues permits, including industrial storm water permits, through its State Water Resources Control Board (SWRCB) and nine Regional Water Quality Control Boards. On April 17, 1997, the State Water Board adopted General Permit No. CAS000001 for *Discharges of Stormwater Associated with Industrial Activities Excluding Construction Activities*, Water Quality Order No. 97-03-DWQ, which was in effect through June 30, 2015 and subsequently revised by the State Water Board on April 1, 2014, Water Quality Order No. 2014-0057-DWQ, which became effective on July 1, 2015 (hereinafter, "General Permit").

10. Pursuant to CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19.4, the EPA may assess a Class II civil administrative penalty of up to $16,000 per day of violation, not to exceed $187,500 in total, against a person for CWA Section § 301(a) violations that occurred on or after December 6, 2013. For violations that occurred after November 2, 2015, the EPA may assess a penalty up to $20,965 per day of violation, not to exceed $262,066 in total.

III. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS, AND CONCLUSIONS OF LAW

11. Respondent is a California corporation and therefore, a person within the meaning of CWA § Section 502(5), 33 U.S.C. § 1362(5). Respondent operated a plastics recycling plant located at 14131 South Avalon Boulevard in Los Angeles, CA., hereinafter the "Facility."

12. Respondent had been engaged in recycling plastic at the Facility since at least April 2, 2016, a date best known to Respondent. Respondent's operations at the Facility fall within activities classified under SIC Code 5093 and were therefore an "industrial activity" for

purposes of CWA Section 402(p), 33 U.S.C. § 1342(p), and [40 C.F.R. § 122.26(b)(14)(xi)].

13. Stormwater runoff from the Facility discharges from a pump filter to Avalon Boulevard, then to a storm drain inlet connected to the County of Los Angeles' municipal separate storm sewer system (MS4)]. Such conveyances, including curbs, gutters and inlets and the County of Los Angeles' MS4 are "point sources" within the meaning of CWA Section 502(14), 33 U.S.C. § 1362(14).

14. Stormwater runoff from the Facility is a "stormwater discharge associated with industrial activity" as defined by [40 C.F.R. § 122.26(b)(14)(xi)].

15. Stormwater discharges from the facility include plastic fragments, oil, food waste and trash, and therefore contain "pollutants," as defined by CWA Section 502(6), 33 U.S.C. § 1362(6).

16. Discharges from the Facility enter the County of Los Angeles MS4 and discharge into Dominquez Channel, a tributary to the Port of Los Angeles, which flows to the Pacific Ocean. Dominquez Channel, the Port of Los Angeles, and the Pacific Ocean are "waters of the United States" within the meaning of CWA Section 502(7), 33 U.S.C. § 1362(7) and implementing regulations.

17. Respondent's discharge of pollutants in stormwater into waters of the United States constitutes a "discharge of pollutants" within the meaning of CWA Section 502(12), 33 U.S.C. § 1362(12).

18. On or around January 17, 2017, Respondent submitted an NOI to the State Water Board seeking coverage under the General Permit for the Facility. On February 6, 2017, the State Water Board granted Respondent coverage under the General Permit and assigned WDID Number 4 191027031 for the Facility. Prior to February 6, 2017, storm water discharges from Respondent's Facility where not authorized by the General Permit or an individual NPDES permit.

19. EPA inspected the facility on June 9, 2016 and October 17, 2016. The EPA Inspector observed large amounts of exposed plastic materials, plastic fragments, supersacks leaking oil and food waste products, and trash on mostly impervious surfaces. The inspector also observed no perimeter controls or other control measures to address the stormwater discharges.

20. Between the start of operations on or around April 2, 2016 and the end of operations on November 28, 2016, at least two (2) days with rainfall in excess of 0.5 inches were recorded at the Hawthorne Airport. Upon information and belief, each of these two (2) rainfall events resulted in a discharge of storm water from the Facility

IV. ALLEGED VIOLATIONS

21. Between April 2, 2016 and November 28, 2016 Respondent violated CWA Section 301(a), 33 U.S.C. § 1311(a) on at least two (2) days by discharging pollutants from a point source

into waters of the United States without NPDES permit authorization.

V. ADMINISTRATIVE PENALTY

22. In consideration of the penalty factors of CWA Section 309(g), 33 U.S.C. § 1319(g) Respondent shall pay to the United States a civil administrative penalty in the amount of $23, 326 within thirty (30) calendar days of the Effective Date, as defined in Section X below, of this CA/FO.

23. Respondent shall make penalty payment by one of the options listed below:

    a. Check Payment. Payment by a cashier's or certified check shall be made payable to "Treasurer, United States of America" and be mailed as follows:

        i. *If by regular U.S. Postal Service Mail*:

        U.S. Environmental Protection Agency
        Fines and Penalties
        PO BOX 979077
        St. Louis, MO 63197-9000

        ii. *If by overnight mail:*

        U.S. Environmental Protection Agency
        Government Lockbox 979077
        USEPA Fines and Penalties
        1005 Convention Plaza
        SL-MO-C2-GL
        St. Louis, MO 63101

    b. Automated Clearinghouse Payment: Payment by Automated Clearinghouse (ACH) via Vendor Express shall be made through the U.S. Treasury as follows:

        U.S. Treasury REX/Cashlink ACH Receiver
        ABA: 051036706
        Account Number: 310006, Environmental Protection Agency
        CTX Format Transaction Code 22 – checking

    c. Fedwire: Payment by wire transfer to the EPA shall be made through the Federal Reserve Bank of New York as follows:

        Federal Reserve Bank of New York
        ABA = 021030004
        Account = 68010727
        SWIFT address = FRNYUS33

33 Liberty Street
New York, NY 10045
(Field Tag 4200 of the Fedwire message should read: D 68010727 Environmental Protection Agency)

d. Online Payment: This payment option can be accessed from the information below

Go to www.pay.gov
Enter "SFO Form Number 1.1." in the search field
Open "EPA Miscellaneous Payments – Cincinnati Finance Center" form and complete required fields

Payment instructions are available at: http://www2.epa.gov/financial/makepayment. If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at (513) 487-2091.

24. To ensure proper credit, Respondent shall include the following transmittal information with the penalty payment: (i) Respondent's name (as appeared on the CA/FO), complete address, contact person, and phone number; (ii) the EPA case docket number; (iii) the EPA contact person; and (iv) the reason for payment.

25. Concurrent with the payment, Respondent shall send a true and correct copy of the payment and accompanying transmittal information to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Daniel Haskell
U.S. Environmental Protection Agency, Region 9
Southern California Field Office
600 Wilshire Boulevard, Suite 1460
Los Angeles, CA 90017

26. Respondent shall not, and shall not allow any other person to, deduct any penalties and interest paid under this CA/FO from federal, state, or local taxes.

27. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay the assessed penalty on time, the EPA may request the U.S. Department of Justice to bring a civil action to recover the overdue amount, plus interest at currently prevailing rates from the Effective Date of this CA/FO. In such an action, the validity, amount, or appropriateness of the assessed penalty shall not be subject to review. In addition to any assessed penalty and interest, Respondent shall pay attorney fees, costs for collection

proceedings, and a quarterly nonpayment penalty, which shall equal 20% of the aggregate amount of Respondent's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter, for each quarter during which such failure to pay persists. The EPA may also take other debt collection actions as authorized by law, including, but not limited to, the Debt Collection Act, 33 U.S.C. § 3711, and 33 C.F.R. Part 13.

VI. APPLICABILITY

28. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

VII. RESPONDENT'S ADMISSIONS AND WAIVERS

29. In accordance with 40 C.F.R. § 22.18(b), for this proceeding, Respondent:

    a. admits the jurisdictional allegations of the complaint;

    b. admits the facts stipulated in the consent agreement;

    c. consents to all conditions specified in this CA/FO and to the assessment of the civil administrative penalty set forth in Section V above;

    d. waives any right to contest the allegations set forth in this CA/FO; and

    e. waives its right to appeal this proposed Final Order.

VIII. RESERVATION OF RIGHTS

30. In accordance with 40 C.F.R. § 22.18(c), full payment of the penalty set forth in this CA/FO only resolves Respondent's CWA civil penalty liabilities for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

31. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations, and shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

IX. ATTORNEY FEES AND COSTS

32. Unless otherwise specified, each party shall bear its own attorney fees and costs.

X. EFFECTIVE DATE AND TERMINATION

33. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the Effective Date of this CA/FO is the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. This CA/FO shall terminate when Respondent has complied with the requirements of this CA/FO in full.

XI. PUBLIC NOTICE

34. Pursuant to CWA Section 309(g)(4), 33 U.S.C. §1319(g)(4), and 40 C.F.R. § 22.45(b), this Consent Agreement is subject to public notice and comment prior to issuance of the proposed Final Order. Complainant reserves the right to withhold or withdraw consent to this Consent Agreement if public comments disclose relevant and material information that was not considered by Complainant in entering into this Consent Agreement. Respondent may withdraw from this Consent Agreement only upon receipt of written notice from the EPA that it no longer supports entry of this Consent Agreement.

35. Pursuant to CWA Section 309(g)(1), 33 U.S.C. § 1319(g)(1), the EPA has consulted with the State of California regarding this penalty action.

For Complainant, the U.S. Environmental Protection Agency, Region 9

Kathleen H. Johnson

Kathleen H. Johnson
Director
Enforcement Division

12-5-17
Date

Of Counsel: Julia Jackson
Asst. Regional Counsel
EPA Region IX

For Respondent Double R Trading, Inc.

17/11-2017

Kevin Zhang
CEO

Date

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, California 94105

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Double R Trading, Inc. City of Industry, California	))	**CONSENT AGREEMENT AND FINAL ORDER**
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Respondent.	)))))	*Class II Administrative Penalty Proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18*

The United States Environmental Protection Agency Region 9 (EPA) and Double R Trading, Inc. (Respondent), having entered into the foregoing Consent Agreement, and the EPA having duly publicly noticed the proposed Consent Agreement and Final Order,

IT IS HEREBY ORDERED THAT:

1. The foregoing Consent Agreement and this Final Order (Docket No. CWA-09-2018-0002) be entered;

2. Respondent pay an administrative civil penalty of $23,326 dollars to the Treasurer of the United States of America in accordance with the terms set forth in the Consent Agreement; and

This Final Order is effective on the date that it is filed with the Regional Hearing Clerk. This Final Order constitutes full adjudication of the allegations in the Consent Agreement entered into by the Parties in this proceeding.

Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

Date: 01/18/18

CERTIFICATE OF SERVICE

I hereby certify the attached Consent Agreement and Final Order was sent to Respondent by U.S. Certified Mail, Return Receipt Requested this 19 day of January, 2018 to:

Mr. Kevin Zhang, CEO
Double R Trading, Inc.
250 S. 9th Avenue
City of Industry, CA 91746

Certified Mail Number: **7016 1370 0000 0748 8590**

An additional copy was delivered to the following U.S. EPA case attorney:

Ms. Julia Jackson
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne St., ORC-1
San Francisco, CA 94105

2018-01-04
Date

Steven Armsey
Steven Armsey
~~Acting~~ Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105