May 2, 2016

Hickman's Egg Ranch, Inc.
6515 South Jackrabbit Trail
Buckeye, AZ 85326

Bryan F. Murphy, Statutory Agent for Hickman's Egg Ranch, Inc.
Burch & Cracchiolo
702 East Osborn Road
#200
Phoenix, AZ 85014

Dear Persons:

I. INTRODUCTION

Don't Waste Arizona, Inc. (DWAZ) is a statewide environmental organization, and is located at 2934 West Northview Avenue, Phoenix, Arizona 85051, (602) 881-3305. DWAZ is the party giving notice of its intent to sue. DWAZ has members in the areas affected.

Section 310 (a) (1) of the Comprehensive Emergency Response, Compensation and Liability Act (CERCLA) requires that a citizen give notice of intent to sue 60 days prior to the institution of a civil action under Section 310 (a)(1) of CERCLA [42 U.S.C.A 9659(a)(1)].

Section 326(D) of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) requires that a citizen give notice of intent to sue 60 days prior to the institution of a civil action under 326(A) of EPCRA [42 U.S.C. 11046(A)].

This letter is such a notice and you are hereby advised that, after the expiration of 60 days from the date of this Notice of Intent to Sue, Don't Waste Arizona, Inc. (DWAZ) will file a civil action in United States Federal District Court against Hickman's Egg Ranch, Inc. for the violations listed below.

II. VIOLATIONS

This lawsuit will allege that the following violations have occurred at the Hickman's Arlington and Tonopah facilities located at 32425 West Salome Highway, Arlington, AZ 85322 and 41625 West Indian School Road, Tonopah, AZ 85354, respectively:

1. That Hickman's Egg Ranch, Inc. failed to notify the National Response Center, as required by CERCLA 103 (a) [42 USCA 9603 (a)] of its unpermitted daily releases of two CERCLA Hazardous Substance, Hydrogen Sulfide (CAS# 7783-06-4) and Ammonia (CAS# 7664-41-7) into the environment in excess of the reportable quantity for Hydrogen Sulfide and Ammonia (100 pounds in a 24-hour

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period) set by the EPA Administrator. These reportable quantity releases of Hydrogen Sulfide and Ammonia have been occurring on a daily basis for a period beginning on May 1, 2003 for the Arlington facility, and on a daily basis for a period beginning in September 17, 2014 for the Tonopah facility.

2. That Hickman's Egg Ranch, Inc. failed to submit a written follow up emergency notice to the Maricopa County Local Emergency Planning Committee and the Arizona Emergency Response Commission as required under Section 304 (c) [42 U.S.C.A. 1004 (c)] of the Emergency Planning and Community Right to Know Act (EPCRA) for its unpermitted releases into the environment of Hydrogen Sulfide (CAS# 7783-06-4) and Ammonia (CAS# 7664-41-7) from both Hickman's Egg Ranch facilities. These reportable quantity releases of Hydrogen Sulfide and Ammonia have been occurring on a daily basis for a period beginning on May 1, 2003 for the Arlington facility to present, and on a daily basis for a period beginning in September 17, 2014 to present for the Tonopah facility. 42 U.S.C.A. section 1004 (c) requires that a facility that has a reportable quantity release under CERCLA 103 (a) or EPCRA Section 302 (a) [42 USCA 11002 (a)] to provide a written followup emergency notice (or notices, as more information becomes available) setting forth and updating the information required under subsection (b) of EPCRA Section 304 including:

(A) The chemical name or identity of any substance involved in the release.
(B) An indication of whether the substance is on the list referred to in section 11002 (a) of EPCRA. (This is the list of EHS - Extremely Hazardous Substances, which include ammonia and hydrogen sulfide.)
(C) An estimate of the quantity of any such substance that was released into the environment.
(D) The time and duration of the release.
(E) The medium or media into which the release occurred.
(F) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.
(G) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan).
(H) The name and telephone number of the person or persons to be contacted for further information.
The written follow up report must also include additional information with respect to—
(1) actions taken to respond to and contain the release,
(2) any known or anticipated acute or chronic health risks associated with the release, and
(3) where appropriate, advice regarding medical attention necessary for exposed individuals.

These follow up emergency notices are required for the reportable quantity releases of Hydrogen Sulfide and Ammonia from the Hickman's Egg Ranch, Inc. facilities that have been occurring on a daily basis for a period beginning on May 1, 2003 for the Arlington facility, and beginning in September 17, 2014 for the Tonopah facility.

These unpermitted, reportable quantity releases of Hydrogen Sulfide and Ammonia are continuing and ongoing, and each calendar day without notification to the National Response Center has been, and continues to be, another violation. The failure to submit the written followup notice required for each, daily, unpermitted, reportable quantity releases of Hydrogen Sulfide and Ammonia from the Hickman's Egg Ranch, Inc. facilities is continuing and ongoing, and each calendar day without the submission of the required written followup notice has been, and continues to be, another violation.

The violations of CERCLA and EPCRA are continuous and ongoing and there is reason to believe these violations will continue in the future. Because of the historic and consistent pattern of non-compliance at the Hickman's Egg Ranch, Inc.'s Arlington and Tonopah facilities, DWAZ will request equitable relief and penalties of up to $37,500 per day per violation of CERCLA 103 [42 USCA 9603(a)] and $37,500 per day per violation of EPCRA Sections 304 [42 U.S.C. 11004] from the required dates of submittal. DWAZ will also request an award of costs and attorneys fees incurred as a result of this litigation.

III. CONCLUSION

The foregoing violations indicate a historic pattern of non-compliance. Accordingly, DWAZ will request that the court enforce the requirements of Section 103 of CERCLA and Section 304 of EPCRA and enforce the penalty requirements found at Section 109 of CERCLA [42 USCA 9609 (a) (1)] and Section 325 of EPCRA [42 USCA 11045]. up to $37,500 per day per violation of Section 103 of CERCLA, and could potentially be liable for civil penalties in the amount of up to $37,500 per day per violation of Section 304 EPCRA, and DWAZ's reasonable attorney fees, expert fees, and costs of litigation.

Sincerely,

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