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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105



In the Matter of:	)	
	)	Docket No. TSCA-09-2026-0059
	)	
Union Pacific Railroad Company	)	CONSENT AGREEMENT
	)	AND FINAL ORDER PURSUANT TO
	)	40 C.F.R. §§ 22.13 and 22.18
Respondent.	)	
	)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region 9 (“EPA”) and Union Pacific Railroad Company (“UPRR” or “Respondent”) agree to settle this case initiated under the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2601 *et seq.*, and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter pursuant to 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action brought against Respondent pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for the assessment of a civil administrative penalty against Respondent for violations of Section 15 of TSCA, 15 U.S.C. § 2614; and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations (“C.F.R.”) Part 22.
2. Complainant is the Director of the Enforcement and Compliance Assurance Division, EPA Region 9. The Administrator of EPA delegated to the Regional Administrator of EPA Region 9 the authority to bring this action under TSCA. In turn, the Regional Administrator of EPA Region 9 further delegated the authority to bring this action under TSCA to the Director of the Enforcement and Compliance Assurance Division.
3. Respondent is a Delaware corporation, with its principal offices located at 1400 Douglas Street, Omaha, Nebraska.

B. APPLICABLE STATUTORY AND REGULATORY BASIS

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), EPA promulgated regulations at 40 C.F.R. Part 761 that govern the manufacturing, processing, distribution in commerce, marking, storage and disposal of PCBs.
5. “PCB” and “PCBs” mean any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substances. 40 C.F.R. § 761.3.

6. “PCB remediation waste” includes “soil, rags, and other debris generated as a result of any PCB spill cleanup, including, but not limited to: (1) Environmental media containing PCBs, such as soil and gravel; dredged materials, such as sediments, settlement sediment fines, and aqueous decantate from sediment. . . .” 40 C.F.R. § 761.3.
7. “Bulk PCB remediation waste” includes, but is not limited to, the following non-liquid PCB remediation waste: “soil, sediments, dredged materials, muds, PCB sewage sludge, and industrial sludge.” 40 C.F.R. § 761.61(a)(4)(i).
8. “Person” means any natural or judicial person including any individual, corporation, partnership, or association; any State or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 761.3.
9. “Disposal” means intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items. 40 C.F.R. § 761.3.
10. “Generator of PCB waste” means any person whose act or process produces PCBs that are regulated for disposal under subpart D of this part, or whose act first causes PCBs or PCB Items to become subject to the disposal requirements of subpart D of this part. 40 C.F.R. § 761.3.
11. Any person storing, treating, or disposing of PCB waste must do so in accordance with Subpart D of 40 C.F.R. Part 761. 40 C.F.R. § 761.50(a).

12. Section 15 of TSCA, 15 U.S.C. § 2614, provides that “[i]t shall be unlawful for any person to (1) fail or refuse to comply with . . . (B) any requirement prescribed by section 2604 or 2605 [Section 6 of TSCA] of this title, (C) any rule promulgated or order issued under section 2604 or 2605 of this title. . . .”

C. GENERAL ALLEGATIONS

13. Respondent is a “person” as that term is defined by 40 C.F.R. § 761.3.
14. Respondent owns a property (the “Site”) at 700 73rd Avenue in Oakland, California.
15. The Site was operated as a rail station depot from 1895 to 1933 and then leased and operated as an auto salvage yard from 1959 to 1992.
16. Since 1992, the Site has been vacant and unoccupied.
17. Various investigations of soil and groundwater at the Site between 1998 through 2003 revealed contamination of PCBs and volatile organic compounds (“VOCs”).
18. Under the supervision of the California Department of Toxic Substances Control (“DTSC”), Respondent engaged in removal of soil contaminated with PCBs and VOCs at the Site in 2006 but stopped the work due to the VOC levels in soil exceeding the disposal standards. Respondent backfilled and spread the excavated soils across the Site.
19. On August 21, 2018, Respondent submitted its Final Removal Action Workplan for the Site to DTSC, proposing to remove the PCB- and VOC-contaminated soil from various hotspots at the Site and dispose of the contaminated soil at off-site disposal facilities.
20. On March 3, 2023, Respondent submitted its Remedial Action Completion Report for the Site to DTSC, reporting that 205 tons of contaminated soil from PCB hotspots were

disposed of as TSCA hazardous waste at the U.S. Ecology Inc., Grand View, Idaho disposal facility (the “U.S. Ecology Facility”) on February 22, 2022, and that 334 tons of contaminated soil from PCB hotspots were disposed of as non-hazardous waste at the Republic Services ECDC Landfill (“ECDC Landfill”) in East Carlton, Utah on February 22, 2022.

21. The 205 tons of contaminated soil from PCB hotspots at the Site that were disposed of as TSCA hazardous waste at the U.S. Ecology Facility on February 22, 2022 constitute bulk PCB remediation wastes as that term is defined at 40 C.F.R. § 761.3.
22. The 334 tons of contaminated soil from PCB hotspots at the Site that were disposed of as non-hazardous waste at the ECDC Landfill on February 22, 2022 constitute bulk PCB remediation wastes as that term is defined at 40 C.F.R. § 761.3.
23. On February 12, 2022, EPA sent an information request (the “First Information Request”) to the Respondent regarding its compliance with the requirements of TSCA and 40 C.F.R. Part 761 at the Site.
24. On March 16, 2022, Respondent submitted its response to the First Information Request.
25. On February 12, 2024, EPA sent an information request (the “Second Information Request”) to the Respondent regarding the Site.
26. On March 26, 2024, Respondent submitted its response to the Second Information Request.

D. ALLEGED VIOLATIONS

Count 1

(Improper Disposal of PCB Remediation Waste; 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii))

27. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.
28. Under 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii), bulk PCB remediation wastes with a PCB concentration equal to or greater than 50 ppm must be disposed of in a hazardous waste landfill permitted by EPA under section 3004 of the Resource Conservation and Recovery Act ("RCRA"), or by a State authorized under section 3006 of RCRA, or a PCB disposal facility approved under TSCA.
29. The EPA investigation of the Facility indicated that the 334 tons of contaminated soil from PCB hotspots at the Site that were disposed of as non-hazardous waste at the ECDC Landfill on February 22, 2022 contained PCBs in concentrations exceeding 50 ppm.
30. At all times relevant to this action, the ECDC Landfill was neither permitted by EPA under section 3004 of RCRA nor by a State authorized under section 3006 of RCRA.
31. At all times relevant to this action, the ECDC Landfill did not have any TSCA PCB Disposal Approval.
32. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iii) on February 22, 2022.

Count 2

(Failure to Comply with the PCB Remediation Waste Manifest Requirements;

40 C.F.R. § 761.207(a))

33. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.
34. Under 40 C.F.R. § 761.207(a), a generator who transports, or offers for transport, PCB waste for commercial off-site disposal must prepare a manifest on EPA Form 8700-22.
35. The EPA investigation of the Facility indicated that Respondent offered for transport PCB waste for commercial off-site disposal on or about February 22, 2022 when it arranged for shipments of the 334 tons of contaminated soil from PCB hotspots at the Site to the ECDC Landfill
36. The EPA investigation of the Facility indicated that Respondent failed to prepare manifests on EPA Form 8700-22 for the 334 tons of contaminated soil from PCB hotspots at the Site that were transported to the ECDC Landfill on or about February 22, 2022.
37. Accordingly, EPA alleges that Respondent violated the requirements set forth at 40 C.F.R. § 761.207(a) on February 22, 2022.

Count 3

(Failure to Comply with the PCB Remediation Waste Manifest Requirements;

40 C.F.R. § 761.207(a)(1))

38. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.

39. Under 40 C.F.R. § 761.207(a)(1), a generator who transports, or offers for transport, PCB waste for commercial off-site disposal must prepare a manifest on EPA Form 8700-22 that specifies for each bulk load of PCBs, the identity of the PCB waste, the earliest date of removal from service for disposal, and the weight in kilograms of the PCB waste.
40. The EPA investigation of the Facility indicated that the manifests prepared by Respondent for the 205 tons of contaminated soil the Site that were disposed of as TSCA hazardous waste at the U.S. Ecology Facility on February 22, 2022 failed to specify the earliest date of removal from service for disposal and the weight in kilograms of the PCB waste.
41. Accordingly, EPA alleges that Respondent violated the requirements set forth at 40 C.F.R. § 761.207(a)(1) on February 22, 2022.

Count 4

(Failure to Notify a Disposal Facility regarding Disposal of the PCB Remediation Waste;

40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iv))

42. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.
43. Under 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iv), a generator must provide written notice, including the quantity to be shipped and highest concentration of PCBs at least 15 days before the first shipment of bulk PCB remediation waste from each cleanup site by the generator, to each off-site facility where the waste is destined for an area not subject to a TSCA PCB Disposal Approval.

44. The EPA investigation of the Facility indicated that Respondent provided a written notice to the ECDC Landfill regarding the February 22, 2022 shipment of bulk PCB remediation waste to the ECDC Landfill on February 22, 2024.
45. Accordingly, EPA alleges that Respondent violated the requirement set forth at 40 C.F.R. § 761.61(a)(5)(i)(B)(2)(iv) from February 22, 2022 to February 22, 2024.

E. RESPONDENT'S ADMISSIONS

46. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section I.D of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.F of this CAFO; (iv) waives any right to contest the allegations contained in Section I.D of this CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

F. CIVIL ADMINISTRATIVE PENALTY

47. Respondent hereby consents to the assessment of a civil penalty in the amount of ONE HUNDRED FIFTY-FIVE THOUSAND TWO HUNDRED THIRTY-FOUR DOLLARS (\$155,234), as complete settlement of the civil claims alleged in Section I.D of the CAFO.
48. Respondent shall pay the assessed penalty according to the terms of this CAFO within thirty (30) days of the Effective Date of the CAFO. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091.

49. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, TSCA-09-2026-0059.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
R9hearingclerk@epa.gov

Emily Benayoun (ENF-2-2)
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
915 Wilshire Boulevard, Suite 1100
Los Angeles, CA 90017
benayoun.emily@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that

payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

50. If Respondent fails to pay the civil administrative penalty specified in Paragraph 47 of this CAFO within 30 days after the effective date of this CAFO, then Respondent shall pay to EPA a stipulated penalty as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for each day of delay thereafter.
51. In addition, failure to pay the civil administrative penalty may lead to any or all of the following actions:
 - a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
 - b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
 - d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty within the deadline specified in Paragraph 48. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.
52. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

G. TAX REPORTING

53. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service (“IRS”) a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent’s failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.
- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.
 - b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN.

- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Division at sherrer.dana@epa.gov, on or before the date that Respondent's initial penalty payment is due, pursuant to Paragraph 6 of the CAFO, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

H. CERTIFICATION OF COMPLIANCE

- 54. In executing this CAFO, Respondent certifies that it is now in compliance with the federal regulations promulgated to implement Section 6(e) of TSCA, 15 U.S.C. § 2605(e), at 40 C.F.R. Part 761.

I. RETENTION OF RIGHTS

- 55. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the CAFO up to the Effective Date of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.D of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to,

injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.D of the CAFO.

56. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

J. ATTORNEYS' FEES AND COSTS

57. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

K. EFFECTIVE DATE

58. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

L. BINDING EFFECT

59. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
60. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CAFO.

FOR RESPONDENT UNION PACIFIC RAILROAD COMPANY:

____05/19/2026____
DATE



By: Rami S. Hanash
Title: Sr. Counsel
Address: 1400 Douglas St., Omaha, NE 68179

FOR COMPLAINANT EPA REGION 9:

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division

II. FINAL ORDER

EPA Region 9 and Union Pacific Railroad Company, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2026-0059) be entered, and Respondent shall pay a civil administrative penalty in the amount of ONE HUNDRED FIFTY-FIVE THOUSAND TWO HUNDRED THIRTY-FOUR DOLLARS (\$155,234) and otherwise comply with the terms set forth in the Consent Agreement.

DATE

BEATRICE WONG
Regional Judicial Officer
United States Environmental
Protection Agency, Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Union Pacific Railroad Company (Docket No. TSCA-09-2026-0059) was filed with the Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

VIA ELECTRONIC MAIL

Nick Bryan
Union Pacific Railroad Company
24125 Aldine Westfield Road
Spring, TX 77373
njbryan@up.com

David H. Kim
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
Kim.david@epa.gov

Dated: _____

By: _____

Ponly Tu
U.S. Environmental Protection Agency, Region 9