

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

CERTIFIED MAIL NO. 7007 2560 0001 7660 7969
RETURN RECEIPT REQUESTED

AUG 09 2010

Ms. Colleen Trost
Pearson Engineering Corporation
2505 Loma Avenue
South El Monte, CA 91733

Re: In the matter of Pearson Engineering Corporation dba Vaga Industries
U.S. EPA Docket No. RCRA-09-2010- 0012

Dear Ms. Trost:

Enclosed is a copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with the United States Environmental Protection Agency (EPA).

When the EPA receives the final payment of the penalty identified in the Consent Agreement and Final Order this case will be closed. If you have any questions regarding the rules, regulations and statutes which govern the proceedings terminated by the enclosed Consent Agreement and Final Order, please contact Letitia Moore at (415) 972-3892.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Scott".

Jeff Scott, Director
Waste Management Division

Enclosure

FILED

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U.S. EPA REGION IX
REGIONAL HEARING CLERK

1 NANCY J. MARVEL
Regional Counsel
2
3 LETITIA D. MOORE
Assistant Regional Counsel
U.S. Environmental Protection Agency
4 Region IX
75 Hawthorne Street
5 San Francisco, CA 94105
(415)972-3928
6

7 **UNITED STATES**
8 **ENVIRONMENTAL PROTECTION AGENCY**
9 **REGION IX**

10 **IN THE MATTER OF:**

Docket No.
RCRA-09-2010-00 12

11)
12) PEARSON ENGINEERING CORPORATION
doing business as VAGA Industries,
13)
14) Respondent.

CONSENT AGREEMENT
AND
FINAL ORDER
PURSUANT TO 40 C.F.R.
SECTIONS 22.13 and 22.18

15 **CONSENT AGREEMENT**

16 Complainant, the United States Environmental Protection Agency, Region IX
17 (“Complainant” or “EPA”), and Respondent, Pearson Engineering Corporation (“Respondent” or
18 “Pearson”), the parties herein, having agreed that settlement of this matter is in the public interest
19 and that entry of this Consent Agreement and Final Order, pursuant to 40 C.F.R. Sections 22.13
20 and 22.18, (“CA/FO”), without further litigation is the most appropriate means of resolving this
21 matter;

22 NOW, THEREFORE, Complainant and Respondent hereby agree as follows:

23 A. **PRELIMINARY STATEMENT**

24 1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1)
25 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C.
26 § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative
27

1 Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits
2 ("Consolidated Rules"), 40 C.F.R. Part 22. Complainant is the United States
3 Environmental Protection Agency, Region IX. Respondent is a corporation organized
4 under the laws of the State of California.

5 2. At the time of the violations alleged, Respondent was managing hazardous waste at a
6 facility located at 2505 Loma Avenue, South El Monte, California 91733, EPA
7 Identification Number CAD 009 693 904 (hereinafter referred to as the "Facility").

8 3. This CA/FO, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), simultaneously commences
9 and concludes this proceeding, wherein EPA alleges that Respondent managed hazardous
10 waste in violation of the RCRA Hazardous Waste Management requirements, 42 U.S.C.
11 §§ 6921 - 6939e, the implementing regulations, and state regulations adopted pursuant to
12 the federally authorized California hazardous waste management program.

13 4. EPA is enforcing California hazardous waste management program requirements as
14 approved and authorized by the United States.

15 5. On August 1, 1992, the State of California received authorization to administer the
16 hazardous waste management program in lieu of the federal program pursuant to Section
17 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. This authorization was
18 updated on September 26, 2001 (*see* 66 Fed. Reg. 49118, September 26, 2001). The
19 authorized program is established pursuant to the Hazardous Waste Control Law, Chapter
20 6.5 of Division 20 of the California Health and Safety Code ("H&SC"), and the
21 regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of
22 Regulations, 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for
23 all the regulations referenced in this CA/FO.¹ Citations in this CA/FO are to California

24
25 ¹ All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California
26 Code of Regulations. EPA is enforcing the California hazardous waste management program
27 requirements as approved and authorized by the United States on August 1, 1992 (*see* 57 FR
32726, July 23, 1992) and the Final Authorization of Revisions to the Hazardous Waste

1 hazardous waste management program requirements, followed by the corresponding
2 federal citations provided in brackets.

3
4 B. GENERAL ALLEGATIONS

5 6. Respondent is, and at all times referred to herein was, a "person" as defined in 22 C.C.R.
6 § 66260.10 [*see also* 40 C.F.R. § 260.10].

7 7. Respondent was the "owner" or "operator" of a facility as defined in 22 C.C.R.
8 § 66260.10 [*see also* 40 C.F.R. § 260.10] at the time of the violations alleged.

9 8. Respondent was a "generator" of "hazardous waste" as defined in 22 C.C.R. § 66260.10
10 [*see also* 40 C.F.R. § 260.10] at the time of the violations alleged.

11 9. Respondent was engaged in the "storage" of "hazardous waste" as defined in 22 C.C.R.
12 § 66260.10 [*see also* 40 C.F.R. § 260.10] at the time of the violations alleged.

13 10. At the Facility, Respondent generated and accumulated; materials that are "wastes" as
14 defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and 261.2
15 for definition of "solid waste"].

16 11. At the Facility, Respondent generated and accumulated; "hazardous waste" as defined in
17 H&SC § 25117 and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA Section
18 1004(5), 42 U.S.C. 6903(5), and 40 C.F.R. §§ 260.10 and 261.3].

19 12. Respondent generated and stored waste ferrous chloride (D002), chromium (D007), and
20 wastewater treatment sludge (F006).

21 13. Respondent is a large quantity generator ("LQG") of hazardous waste.

22 14. 22 C.C.R. § 66270.1(c) requires that owners and operators of a RCRA hazardous waste
23 treatment, storage or disposal facility must have a permit [*see also* 40 C.F.R. § 270.1(c)].

24
25 _____
26 Management Program as approved and authorized by the United States on September 26, 2001
27 (*see* 66 FR 49118, September 26, 2001). Citations to the federal regulations are included for
informational purposes.

- 1 15. Respondent does not have a permit or grant of interim status to treat, store or dispose of
2 hazardous waste under 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1].
- 3 16. On April 8, 2009, EPA conducted a RCRA Compliance Evaluation Inspection (“CEI”) at
4 the Facility. Based upon the findings EPA made during the inspection and additional
5 information obtained subsequent to the inspection, EPA determined that Respondent
6 violated RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921 –
7 6939e, and the implementing regulations, and the federally authorized California
8 hazardous waste management program, 22 C.C.R. Division 4.5, and the implementing
9 regulations at the Facility.
- 10 17. EPA alleges that Respondent (1) stored hazardous waste without a permit in violation of
11 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1], (2) failed to make a hazardous waste
12 determination in violation of 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11], (3)
13 failed to properly close containers of hazardous waste in violation of 22 C.C.R.
14 § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)], and (4) failed to provide emergency
15 decontamination equipment in violation of 22 C.C.R. § 66265.32(c) [*see also* 40 C.F.R.
16 § 265.32(d)].
- 17 18. Under Section 3006 of RCRA, 42 U.S.C. § 6926, violations of the State of California’s
18 authorized RCRA Hazardous Waste Management Program are federally enforceable.
19 Respondent is therefore subject to the powers vested in the EPA Administrator by Section
20 3008 of RCRA, 42 U.S.C. § 6928.
- 21 19. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue
22 orders assessing a civil penalty for any past or current violation, or requiring compliance
23 immediately or within a specified time for violation of any requirement of Subtitle C of
24 RCRA, Sections 3001 - 3023 of RCRA, 42 U.S.C. §§ 6921 - 6939e.
- 25 20. Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), provides that when a violation of
26 Subtitle C of RCRA occurs in a state which has been authorized under Section 3006 of
27

1 RCRA, 42 U.S.C. § 6926, the Administrator must notify an authorized state prior to
2 issuing an order under Section 3008 of RCRA in that state. EPA notified the State of
3 California as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

- 4 21. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA
5 Regional Administrator for Region IX, who has redelegated this authority to the Director
6 of the Waste Management Division.

7
8 C. ALLEGED VIOLATIONS

9 COUNT I

10 (Storage of Hazardous Waste Without a Permit)

- 11 22. Paragraphs 1 through 21 above are incorporated herein by this reference as if they were
12 set forth here in their entirety.
- 13 23. 22 C.C.R. § 66262.34 [see also 40 C.F.R. § 262.34] provides that generators of hazardous
14 waste may accumulate hazardous waste onsite for a limited period of time, without a
15 permit or grant of interim status, provided the generator complies with the requirements
16 which are set forth or referenced by 22 C.C.R. § 66262.34 [see also 40 C.F.R. § 262.34].
- 17 24. Failure to comply with the time limits or any of the requirements set forth in or referenced
18 by 22 C.C.R. § 66262.34 [see also 40 C.F.R. § 262.34] subjects the generator to the
19 permitting requirements of 22 C.C.R. § 66270.1(c) [see also 40 C.F.R. § 270.1].
- 20 25. Respondent violated several of the requirements set forth or referenced in 22 C.C.R.
21 § 66262.34 [see also 40 C.F.R. § 262.34].
- 22 26. **Storage Over 90 Days.** 22 C.C.R. § 66262.34(a) [see also 40 C.F.R. § 262.34(a)]
23 provides that generators of hazardous waste may accumulate hazardous waste onsite for
24 up to 90 days, without a permit or grant of interim status.
- 25 27. Hazardous waste manifest records from the Facility show that containers of hazardous
26

1 waste were stored at the Facility for more than 90 days in calendar years 2007 and 2008.

2 28. Respondent's accumulation of hazardous waste at the Facility for more than 90 days
3 without a permit or grant of interim status violated the requirements of 22 C.C.R.
4 § 66262.34(a) [see also 40 C.F.R. § 262.34(a)]. Therefore, Respondent violated 22
5 C.C.R. § 66270.1(c) [see also 40 C.F.R. § 270.1].

6 29. **Labeling Accumulation Start Date.** 22 C.C.R. § 66262.34(a)(2) [see also 40 C.F.R.
7 §262.34(a)(2)] requires that generators who accumulate hazardous waste onsite without a
8 permit or grant of interim status shall label containers of hazardous waste with the
9 accumulation period start dates. Generators who fail to label containers of hazardous
10 waste with the accumulation start dates fail to meet the requirements of 22 C.C.R.
11 §66262.34(a)(2) [see also 40 C.F.R. §262.34(a)(2)] and are subject to the permitting
12 requirements of 22 C.C.R. §66270.1(c) [see also 40 C.F.R. §270.1].

13 30. On April 8, 2009, an EPA inspector observed that Respondent had not marked containers
14 of hazardous waste with the accumulation start date.

15 31. Respondent's storage of hazardous waste without accumulation start dates violated the
16 labeling requirements of 22 C.C.R. §66262.34(a)(2) [see also 40 C.F.R. §262.34(a)(2)].
17 Therefore, Respondent violated 22 C.C.R. §§ 66270.1 [see also 40 C.F.R. § 270.1]

18 32. **Failure to Close Containers of Hazardous Waste.** 22 C.C.R. §66262.34 [see also 40
19 C.F.R. §262.34] requires that large and small quantity generators who accumulate
20 hazardous waste onsite without a permit or grant of interim status comply with the
21 requirements of 22 C.C.R. § 66265.173 [see also 40 C.F.R. § 265.173]. 22 C.C.R.
22 §66265.173(a) [see also 40 C.F.R. §265.173(a)] requires that containers holding
23 hazardous waste shall always be closed during transfer and storage, except when it is
24 necessary to add or remove waste.

25 33. On April 8, 2009, an EPA inspector observed containers of hazardous waste that were
26
27

1 open at a time when waste was neither being added nor removed from the containers.

2 34. Respondent's failure to close the containers of hazardous waste violated 22 C.C.R.
3 § 66265.173 (a) [*see also* 40 C.F.R. § 265.173(a)]. Therefore, Respondent has violated
4 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

5 35. **Failure to Provide Emergency Decontamination Equipment.** 22 C.C.R. §66262.34
6 [*see also* 40 C.F.R. §262.34] requires that large and small quantity generators who
7 accumulate hazardous waste onsite without a permit or grant of interim status comply
8 with the requirements of 22 C.C.R. § 66265.32(c) [*see also* 40 C.F.R. § 265.32(c)]. 22
9 C.C.R. § 66265.32(c) [*see also* 40 C.F.R. § 265.32(c)] requires that all hazardous waste
10 facilities be equipped with decontamination equipment.

11 36. On April 8, 2009, an EPA inspector observed that Respondent maintained a 90-Day
12 Hazardous Waste Storage Area that did not have an eye wash decontamination unit.

13 37. Respondent's failure to provide decontamination equipment violated 22 C.C.R.
14 § 66265.32(c) [*see also* 40 C.F.R. § 265.32(c)]. Therefore, Respondent has violated 22
15 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

16 COUNT II

17 (Failure to Make a Hazardous Waste Determination)

18 38. Paragraphs 1 through 37 above are incorporated herein by this reference as if they were
19 set forth here in their entirety.

20 39. 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11] requires that a person who generates
21 solid waste determine if that waste is a hazardous waste.

22 40. Respondent generated waste sludge in a 55-gallon container in the 90-day Storage Area at
23 the Facility.

24 41. On April 8, 2009, Respondent had not completed a hazardous waste determination for the
25 55-gallon container of waste sludge.
26
27

1 42. Respondent's failure to make a waste determination violated 22 C.C.R. § 66262.11 [*see*
2 *also* 40 C.F.R. § 262.11].

3 COUNT III

4 (Failure to Close Containers)

5 43. Paragraphs 1 through 42 above are incorporated herein by this reference as if they were
6 set forth here in their entirety.

7 44. 22 C.C.R. §66265.173(a) [*see also* 40 C.F.R. §265.173(a)] requires that owners and
8 operators manage containers holding hazardous waste so that such containers are always
9 closed during storage, except when it is necessary to add or remove waste.

10 45. On April 8, 2009, an EPA inspector observed containers of hazardous waste that were
11 open at a time when waste was neither being added nor removed from the containers.

12 46. Respondent's failure to close the containers of hazardous waste violated 22 C.C.R.
13 § 66265.173 (a) [*see also* 40 C.F.R. § 265.173(a)].

14 COUNT IV

15 (Failure to Provide Emergency Decontamination Equipment)

16 47. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were
17 set forth here in their entirety.

18 48. 22 C.C.R. § 66265.32(c) [*see also* 40 C.F.R. § 265.32(c)] requires that all hazardous
19 waste facilities be equipped with decontamination equipment.

20 49. On April 8, 2009, an EPA inspector observed that Respondent maintained a 90-Day
21 Hazardous Waste Storage Area that did not have an eye wash decontamination unit.

22 50. Respondent's failure to provide decontamination equipment violated 22 C.C.R.
23 § 66265.32(c) [*see also* 40 C.F.R. § 265.32(c)].
24
25
26
27

1 D. CIVIL PENALTY

2 51. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as amended by the Debt Collection
3 Improvement Act of 1996, 40 C.F.R. Part 19, authorizes a civil penalty of up to
4 THIRTY-TWO THOUSAND AND FIVE HUNDRED DOLLARS (\$37,500) per day for
5 each violation of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq.

6 52. Based upon the facts alleged herein and upon those factors which EPA must consider
7 pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil
8 Penalty Policy, including the seriousness of the violations, any good faith efforts by
9 Respondents to comply with applicable requirements, and any economic benefit accruing
10 to Respondents, as well as such other matters as justice may require, EPA proposes that
11 Respondents be assessed **THIRTY-FIVE THOUSAND DOLLARS (\$35,000)** as the
12 civil penalty for the violations alleged herein. The proposed penalty is consistent with the
13 "RCRA Civil Penalty Policy," dated June 2003, as adjusted by the Debt Collection
14 Improvement Act.

15
16 E. ADMISSIONS AND WAIVERS

17 53. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations
18 set forth in Sections A and B of this CA/FO. Respondent consents to and agrees not to
19 contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce
20 its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel
21 compliance with this CA/FO in any enforcement proceedings, either administrative or
22 judicial, or to impose sanctions for violations of this CA/FO.

23 54. Respondent neither admits nor denies any allegations of fact or law set forth in Section C
24 of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the
25 allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing
26
27

1 on any issue relating to the factual allegations or legal conclusions set forth in this
2 CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42
3 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without
4 adjudication. In addition, Respondent hereby waives any rights Respondent may have to
5 appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.
6

7 F. PARTIES BOUND

8 55. This CA/FO shall apply to and be binding upon Respondent and its agents, successors
9 and assigns and upon all persons acting under or for Respondent, until such time as the
10 civil penalty required under Section D has been paid in accordance with Section G, all
11 compliance tasks have been completed, and any delays in performance and/or stipulated
12 penalties have been resolved. At such time as those matters are concluded, this CA/FO
13 shall terminate and constitute full settlement of the civil violations alleged herein.

14 56. No change in ownership or corporate, partnership or legal status relating to the Facility
15 will in any way alter Respondent's obligations and responsibilities under this CA/FO.

16 57. The undersigned representative of Respondent hereby certifies that he is fully authorized
17 by Respondent to enter into this CA/FO, to execute and to legally bind Respondent.
18

19 G. PAYMENT OF CIVIL PENALTY

20 58. Respondent hereby consents to the assessment of a civil penalty in the amount of
21 **THIRTY-FIVE THOUSAND DOLLARS (\$35,000)** in settlement of the civil penalty
22 claims of the United States for the violations of the federally authorized California
23 hazardous waste management program established pursuant to the California Hazardous
24 Waste Control Law, Chapter 6.5 of Division 20 of the California H&SC, and 22 C.C.R.
25 § 66270.1 [see also 40 C.F.R. § 270.1], 22 C.C.R. § 66262.11 [see also 40 C.F.R.
26
27

1 § 262.11], 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)], and 22 C.C.R.
2 § 66265.32(c) [see also 40 C.F.R. § 265.32(d)], as alleged in Section C above.

3 59. Respondent shall submit payment of the civil penalty of **THIRTY-FIVE THOUSAND**
4 **DOLLARS (\$35,000)** within thirty (30) calendar days of the Effective Date of this
5 CA/FO. The Effective Date of this CA/FO is the date that the Final Order contained in
6 this CA/FO, having been approved and issued by either the Regional Judicial Officer or
7 Regional Administrator, is filed.

8 60. Respondent shall submit the payment due under this CA/FO in accordance with one of
9 the options set forth below, and shall reference the Respondent's name and the docket
10 number of this matter:

11 a. A check sent by regular U.S. Postal Service mail should be made payable to the
12 "Treasurer, United States of America" and addressed to:

13 US Environmental Protection Agency
14 Fines and Penalties
15 Cincinnati Finance Center
16 PO Box 979077
17 St. Louis, MO 63197-9000

18 b. Wire transfers should be directed to the Federal Reserve Bank of New York as
19 follows:

20 Federal Reserve Bank of New York
21 ABA: 021030004
22 Account Number: 68010727
23 SWIFT address: FRNYUS33
24 33 Liberty Street
25 New York NY 10045
26 Field Tag 4200 of the Fedwire message should read:
27 "D 68010727 Environmental Protection Agency".

28 c. A check sent by overnight mail should be payable to the "Treasurer, United States
of America" and addressed to:

U.S. Bank

1 1005 Convention Plaza
2 Mail Station SL-MO-C2GL
3 St. Louis, MO 63101
4 Contact: Natalie Pearson, 314-418-4087

- 5 d. An On Line Payment Option for payments directly from your bank account or by
6 credit/debit card is available through the U.S. Department of Treasury. To use
7 this payment option, access www.pay.gov, enter "sfo 1.1" in the Public Forms
8 search field, open the form, and complete the required fields.

9 See also, http://www.epa.gov/ocfo/finservices/payment_instructions.htm.

- 10 61. At the time payment is so made, a copy of the transmittal form shall be sent to:

11 Regional Hearing Clerk (RC-1)
12 U.S. Environmental Protection Agency - Region IX
13 75 Hawthorne Street
14 San Francisco, CA 94105

15 and

16 Daniel Fernandez (WST-3)
17 Waste Management Division
18 U.S. Environmental Protection Agency - Region IX
19 75 Hawthorne Street
20 San Francisco, CA 94105

- 21 62. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM
22 6-8000), the payment must be received within thirty (30) calendar days of the effective
23 date of this CA/FO to avoid additional charges. If payment is not received within thirty
24 (30) calendar days, interest will accrue from the effective date of this CA/FO at the
25 current rate published by the United States Treasury as described at 40 C.F.R. §13.11(a).
26 Additionally, administrative costs for collecting the overdue debt will be assessed
27 monthly and a monthly penalty charge will be assessed at a rate of 6% per annum on any
28 principal amount not paid within ninety (90) calendar days of the due date. See 40 C.F.R.
§13.11(b) and (c). Furthermore, Respondent will be liable for stipulated penalties as set
forth below for any payment not received by its due date.

1 H. DELAY IN PERFORMANCE AND STIPULATED PENALTIES

2 63. In addition to the interest and per annum penalties described above, in the event that
3 Respondent fails to pay the full amount of the penalty within the time specified in
4 Section G, Respondent agrees to pay Complainant a stipulated penalty in the amount of
5 up to FIVE THOUSAND DOLLARS (\$5,000.00) for each day the default continues.

6 64. All penalties shall begin to accrue on the date that performance is due or a violation
7 occurs, and shall continue to accrue through the final day of correction of the
8 noncompliance. Nothing herein shall prevent the simultaneous accrual of separate
9 penalties for separate violations.

10 65. All penalties owed to EPA under this Section shall be due within thirty (30) days of
11 receipt of a notification of noncompliance. Such notification shall describe the
12 noncompliance and shall indicate the amount of penalties due. Interest at the current rate
13 published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to
14 accrue on the unpaid balance at the end of the thirty-day period.

15 66. All penalties under this Section shall be made payable by certified or cashier's check to
16 "Treasurer of the United States" and shall be remitted to:

17 US Environmental Protection Agency
18 Fines and Penalties
19 Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

20 67. All payments shall indicate the name of the Facility, any EPA identification number of
21 the Facility, Respondent's name and address, and the EPA docket number of this action.
22 At the time payment is made, Respondent shall send a copy of the payment transmittal to:

23 Daniel Fernandez (WST-3)
24 Waste Management Division
25 U.S. Environmental Protection Agency - Region IX
26 75 Hawthorne Street
27 San Francisco, CA 94105

1 68. The payment of stipulated penalties shall not alter in any way Respondent's obligation to
2 complete the performance required hereunder.

3 69. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any
4 other remedies or sanctions which may be available to EPA by reason of Respondent's
5 failure to comply with any of the requirements of this CA/FO.

6
7 I. CERTIFICATION OF COMPLIANCE

8 70. Upon signing this CA/FO, Respondent certifies under penalty of law to EPA that the
9 Respondent has fully complied with the requirements of the federally authorized
10 California hazardous waste management program, including 22 C.C.R. § 66270.1 [*see*
11 *also* 40 C.F.R. § 270.1], 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11], 22 C.C.R.
12 § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)], and 22 C.C.R. § 66265.32(c) [*see also*
13 40 C.F.R. § 265.32(d)], that formed the basis for the violations alleged in this CA/FO.

14 71. This certification of compliance is based upon true, accurate and complete information,
15 which the signatory can verify personally or regarding which the signatory has inquired of
16 the person or persons directly responsible for gathering the information.

17
18 J. RESERVATION OF RIGHTS

19 72. EPA expressly reserves all rights and defenses that it may have.

20 73. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and
21 remedies, both legal and equitable, including the right to require that Respondent perform
22 tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory
23 and regulatory powers, authorities, rights and remedies, both legal and equitable, which
24 may pertain to Respondent's failure to comply with any of the requirements of this
25 CA/FO, including without limitation, the assessment of penalties under Section 3008(c)

1 of RCRA, 42 U.S.C. § 6928(c).

2 74. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation
3 of any rights, remedies, powers or authorities, civil or criminal, which EPA has under
4 RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of
5 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law
6 enforcement authority of the United States.

7 75. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of
8 its obligations to comply with any applicable local, state, or federal laws and regulations.

9 76. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise
10 preclude EPA from taking additional enforcement actions should EPA determine that
11 such actions are warranted except as they relate to Respondent's liability for federal civil
12 penalties for the specific alleged violation and facts as set forth in Section C of this
13 CA/FO.

14 77. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does
15 not relieve Respondent of any obligation to obtain and comply with any local, state, or
16 federal permits. Compliance by Respondent with the terms of this CA/FO shall not
17 relieve Respondent of any obligations to comply with RCRA or any other applicable
18 local, state, or federal laws and regulations.

19 78. EPA reserves its right to seek reimbursement from Respondent for any additional costs
20 incurred by the United States which may result or arise from the alleged counts set forth
21 in Section C. Notwithstanding compliance with the terms of this CA/FO, Respondent is
22 not released from liability, if any, for the costs of any response actions taken by EPA.
23

24 K. OTHER CLAIMS

25 79. Nothing in this CA/FO shall constitute or be construed as a release from any other claim,
26 cause of action or demand in law or equity by or against any person, firm, partnership,
27

1 entity or corporation for any liability it may have arising out of or relating in any way to
2 the generation, storage, treatment, handling, transportation, release, or disposal of any
3 hazardous constituents, hazardous substances, hazardous wastes, pollutants, or
4 contaminants found at, taken to, or taken from the Facility.

5
6 L. MISCELLANEOUS

7 80. This CA/FO may be amended or modified only by written agreement executed by both
8 EPA and Respondent.

9 81. The headings in this CA/FO are for convenience of reference only and shall not affect
10 interpretation of this CA/FO.

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

13
14 M. EFFECTIVE DATE

15 83. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective
16 on the date that the Final Order contained in this CA/FO, having been approved and
17 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

18
19 **IT IS SO AGREED,**

20
21 For Respondent **PEARSON ENGINEERING CORPORATION**

22
23 7-9-10
24 Date

25 CTrost
26 Colleen Trost
27 President
28 Pearson Engineering Corporation

1 For Complainant U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX

2
3 8/3/10

4 

5 Date

6 Jeff Scott
7 Director
8 Waste Management Division
9 United States Environmental Protection Agency,
10 Region IX

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FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order ((U.S. EPA Docket No. RCRA-09-2010-00 12) be entered and that Respondent pay a civil penalty in the amount of **THIRTY-FIVE THOUSAND DOLLARS (\$35,000)** by wire transfer to the account of the U.S. Treasury at the Federal Reserve Bank of New York, within thirty (30) days after the Effective Date of this Consent Agreement and Final Order. A copy of the wire transfer form shall be sent to the EPA Region IX addresses specified in Section G of this Consent Agreement and Final Order within such 30-day period.

This Final Order shall be effective upon filing.

08/05/10

Date



Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region IX

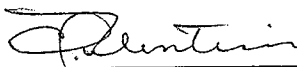
CERTIFICATE OF SERVICE

I hereby certify that on the date below, the original copy of the foregoing Complaint, Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by certified mail, return receipt requested, to:

Ms. Colleen Trost
VP/Owner
PEARSON ENGINEERING CORP.
doing business as VAGA Industries
2505 Loma Ave.
South El Monte, CA 91733

8/09/10

Date



for:

Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel, Region IX