

OCT 14 2015



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

Certified Mail No. 7014 1820 0000 4721 0009

Gabe Cooley
Chief Executive Officer
Rayco Development Solutions, Inc.
3541 Investment Boulevard
Hayward, CA 94545

Re: In the Matter of Rayco Development Solutions, Inc.
Complaint and Notice of Opportunity for Hearing

Dear Mr. Cooley:

Enclosed please find a Complaint and Notice of Opportunity for Hearing concerning violations of the Residential Lead-Based Paint Renovation, Repair and Painting Rule promulgated under Section 402 and 406 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2682 and 2684 (hereinafter "RRP").

The enclosed RRP Enforcement Response and Penalty Policy sets forth the policy for assessing RRP penalties. The enclosed 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 Lynn Kuo, Enforcement Division, at (415) 972-3501, or having your attorney contact Ivan Lieben, Office of Regional Counsel, at (415) 972-3914.

Sincerely,

A handwritten signature in black ink, appearing to read "D. McDaniel".

Douglas K. McDaniel
Chief, Waste and Chemical Section
Enforcement Division

Enclosures

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

** FILED **
14OCT2015 - 02:15PM
U.S.EPA - Region 09

_____))
IN THE MATTER OF:))
))
Rayco Development Solutions, Inc.,))
))
Respondent.))
_____)

Docket No. TSCA-09-2016-0001

**COMPLAINT AND NOTICE
OF OPPORTUNITY FOR
HEARING**

PRELIMINARY STATEMENT

This is a civil administrative action initiated pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). Section 16(a) of TSCA authorizes the Administrator of the United States Environmental Protection Agency ("EPA") to issue a civil complaint for each violation of Section 409 of TSCA, 15 U.S.C. § 2689.

Complainant is the Chief of the Waste & Chemical Section, Air, Waste & Toxics Branch, Enforcement Division, EPA Region IX, who has been duly delegated the authority to initiate an enforcement action in this matter. Respondent is Rayco Development Solutions, Inc., a California corporation located at 3451 Investment Boulevard, Suite 6 in Hayward, California 94545.

This Complaint and Notice of Opportunity for Hearing ("Complaint") serves as notice that Complainant has reason to believe that Respondent violated Section 409 of TSCA by failing

to comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and their implementing regulations promulgated at 40 C.F.R. Part 745, Subpart E.

GENERAL ALLEGATIONS

1. Pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b), 40 C.F.R. Part 745, Subpart E requires a person who performs for compensation a renovation of target housing and child-occupied facilities to provide a lead hazard information pamphlet to the owner and occupant before beginning the renovation.

2. Pursuant to Sections 402(a) and (c) of TSCA, 15 U.S.C. §§ 2682(a) and (c), 40 C.F.R. Part 745, Subpart E provides requirements for certification of individuals and firms engaged in lead-based paint activities and work practice standards for renovation, repair, and painting activities in target housing and child occupied facilities.

3. “Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling. Section 401 of TSCA, 15 U.S.C. § 2681.

4. “Person” means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 745.83.

5. “Firm” means a company, partnership, corporation, sole proprietorship, or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization. 40 C.F.R. § 745.83.

6. "Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is part of an abatement as defined by 40 C.F.R. § 745.223. The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust); the removal of building components (e.g., walls, ceilings, plumbing windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weatherstripping), and interim controls that disturb painted surfaces....The term renovation does not include minor repair and maintenance activities. 40 C.F.R. § 745.83.

7. "Renovator" means an individual who either performs or directs workers who perform renovations. 40 C.F.R. § 745.83.

8. "Certified renovator" means a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program. 40 C.F.R. § 745.83.

9. "Pamphlet" means the EPA pamphlet titled Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools developed under section 406(a) of TSCA for use in complying with sections 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. 40 C.F.R. § 745.83.

10. Respondent is a "person" as that term is defined at 40 C.F.R. § 745.83.

11. At all times relevant to this Complaint, Respondent was a "firm" as that term is

defined at 40 C.F.R. § 745.83.

12. From on or about August 2013 to October 2015, Respondent performed “renovations,” as that term is defined at 40 C.F.R. § 745.83, for compensation at residential properties located at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 1617 Willow Street, Alameda, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

13. At all times relevant to this Complaint, the residential properties located at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 1617 Willow Street, Alameda, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California were “target housing” as that term is defined at 40 C.F.R. § 745.83.

Count 1

14. Paragraphs 1 through 13 are realleged and incorporated herein by reference.

15. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must provide the owner of the unit with a “pamphlet,” as defined at 40 C.F.R. § 745.83 (“the Pamphlet”). 40 C.F.R. § 745.84(a)(1).

16. Respondent failed to provide the owner of the dwelling unit with the Pamphlet before beginning the renovation at 124 9th Street, San Jose, California.

17. Respondent's failure to provide the owner of the unit with the Pamphlet before beginning the renovation at 124 9th Street, San Jose, California constitutes one violation of 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 2-7

18. Paragraphs 1 through 17 are realleged and incorporated herein by reference.

19. The firm performing the renovation must provide the owner of the dwelling unit with the Pamphlet and either (i) obtain from the owner a written acknowledgement that the owner has received the Pamphlet, or (ii) obtain a certificate of mailing at least 7 days prior to the renovation. 40 C.F.R. § 745.84(a)(1)(i)-(ii).

20. At all times relevant to this Complaint, Respondent failed to either (i) obtain from the owner a written acknowledgement that the owner has received the Pamphlet or (ii) obtain a certificate of mailing of the Pamphlet at least 7 days prior to the renovations at 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

21. Respondent's failures to either (i) obtain from the owner a written acknowledgement that the owner has received the Pamphlet or (ii) obtain a certificate of mailing of the Pamphlet at least 7 days prior to the renovations at 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute six violations of 40 C.F.R. § 745.84(a)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 8-9

22. Paragraphs 1 through 21 are realleged and incorporated herein by reference.

23. Firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post- renovation cleaning verification have been completed. 40 C.F.R. § 745.85(a)(1).

24. At all times relevant to this Complaint, Respondent failed to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area for the renovations at 124 9th Street, San Jose, California and 1617 Willow Street, Alameda, California.

25. Respondent's failure to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area for the renovations at 124 9th Street, San Jose, California and 1617 Willow Street, Alameda, California constitute two violations of 40 C.F.R. § 745.85(a)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 10-11

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. Before beginning exterior renovations, firms must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever

is greater, unless the property line prevents 10 feet of such ground covering. 40 C.F.R. § 745.85(a)(2)(ii)(C).

28. At all times relevant to this Complaint, Respondent failed to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris for the renovations at 124 9th Street, San Jose, California and 1617 Willow Street, Alameda, California.

29. Respondent's failure to cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris for the renovations at 124 9th Street, San Jose, California and 1617 Willow Street, Alameda, California constitute two violations of 40 C.F.R. § 745.85(a)(2)(ii)(C) and Section 409 of TSCA, 15 U.S.C. § 2689.

Count 12

30. Paragraphs 1 through 29 are realleged and incorporated herein by reference.

31. After the renovation has been completed, the firm must clean the work area until no dust, debris or residue remains. 40 C.F.R. § 745.85(a)(5).

32. Respondent failed to clean the work area until no dust, debris or residue remained after completion of the renovation at 1617 Willow Street, Alameda, California.

33. Respondent's failure to clean the work area until no dust, debris or residue remained after completion of the renovation at 1617 Willow Street, Alameda, California constitutes one violation of 40 C.F.R. § 745.85(a)(5) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 13-19

34. Paragraphs 1 through 33 are realleged and incorporated herein by reference.

35. Records that must be retained pursuant to 40 C.F.R. § 745.86(a) shall include documentation that a certified renovator was assigned to the project. 40 C.F.R. § 745.86(b)(6).

36. At all times relevant to this Complaint, Respondent failed to keep documentation that a certified renovator was assigned to the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

37. Respondent's failures to keep documentation that a certified renovator was assigned to the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 20-26

38. Paragraphs 1 through 37 are realleged and incorporated herein by reference.

39. Records that must be retained pursuant to 40 C.F.R. § 745.86(a) shall include documentation that a certified renovator provided on-the-job training for workers used on the project. 40 C.F.R. § 745.86(b)(6).

40. At all times relevant to this Complaint, Respondent failed to keep documentation that a certified renovator provided on-the-job training for workers used on the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

41. Respondent's failures to keep documentation that a certified renovator provided on-the-job training for workers used on the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 27-33

42. Paragraphs 1 through 41 are realleged and incorporated herein by reference.

43. Records that must be retained pursuant to 40 C.F.R. § 745.86(a) shall include documentation that a certified renovator performed or directed workers who performed all of the tasks described in 40 C.F.R. 745.85(a) on the project. 40 C.F.R. § 745.86(b)(6).

44. At all times relevant to this Complaint, Respondent failed to keep documentation that a certified renovator performed or directed workers who performed all of the tasks described in 40 C.F.R. 745.85(a) on the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

45. Respondent's failures to keep documentation that a certified renovator performed or directed workers who performed all of the tasks described in 40 C.F.R. 745.85(a) on the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 34-40

46. Paragraphs 1 through 45 are realleged and incorporated herein by reference.

47. Records that must be retained pursuant to 40 C.F.R. § 745.86(a) shall include documentation that a certified renovator performed post-renovation cleanup verification described in 40 C.F.R. § 745.85(b) on the project. 40 C.F.R. § 745.86(b)(6).

48. At all times relevant to this Complaint, Respondent failed to keep documentation that a certified renovator performed post-renovation cleanup verifications described in 40 C.F.R. § 745.85(b) on the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

49. Respondent's failures to keep documentation that a certified renovator performed post-renovation cleanup verifications described in 40 C.F.R. § 745.85(b) on the renovations 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos,

California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 41-47

50. Paragraphs 1 through 49 are realleged and incorporated herein by reference.

51. Records that must be retained pursuant to 40 C.F.R. § 745.86(a) shall include a copy of the certified renovator's training certificate for the project. 40 C.F.R. § 745.86(b)(6).

52. At all times relevant to this Complaint, Respondent failed to keep a copy of the certified renovator's training certificate for the renovations at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

53. Respondent's failures to keep a copy of the certified renovator's training certificate for the renovations 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 48-54

54. Paragraphs 1 through 53 are realleged and incorporated herein by reference.

55. Records that must be retained pursuant to 40 C.F.R. § 745.86(a) shall include a certification by the certified renovator assigned to the renovation that: training was provided to

workers; warning signs were posted at the entrances of the work area; if test kits were used, the specified brand of kits was used at the specified locations and the results were as specified; the work area was contained; and the certified renovator performed the post-renovation cleaning verification (“Work Tasks”). 40 C.F.R. § 745.86(b)(6).

56. At all times relevant to this Complaint, Respondent failed to keep a certification by the certified renovator assigned to the renovations of the Work Tasks performed at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

57. Respondent’s failures to keep a certification by the certified renovator assigned to the renovations of the Work Tasks performed at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 55-61

58. Paragraphs 1 through 57 are realleged and incorporated herein by reference.

59. Firms performing renovations must ensure that all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90. 40 C.F.R. § 745.89(d)(1).

60. At all times relevant to this Complaint, Respondent failed to ensure that all individuals performing renovation activities at 124 9th Street, San Jose, California; 2708 Sunset

Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California on behalf of the firm were either certified renovators or had been trained by a certified renovator in accordance with 40 C.F.R. § 745.90.

61. Respondent's failure to ensure that all individuals performing renovation activities at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California on behalf of the firm were either certified renovators or had been trained by a certified renovator in accordance with 40 C.F.R. § 745.90 constitute seven violations of 40 C.F.R. § 745.89(d)(1) and Section 409 of TSCA, 15 U.S.C. § 2689.

Counts 62-66

62. Paragraphs 1 through 61 are realleged and incorporated herein by reference.

63. Firms performing renovations must ensure that a certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90. 40 C.F.R. § 745.89(d)(2).

64. At all times relevant to this Complaint, Respondent failed to ensure that a certified renovator was assigned who discharged all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90 for the renovations performed at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California.

65. Respondent's failures to ensure that a certified renovator was assigned who discharged all of the certified renovator responsibilities identified in 40 C.F.R. § 745.90 for the renovations performed at 124 9th Street, San Jose, California; 2708 Sunset Avenue, Oakland, California; 972 Mears Court, Stanford, California; 204 Lyndhurst, Belmont, California; 355 Chestnut Street, San Carlos, California; 2429 Adeline Street, Oakland, California; and 549 45th Street, Oakland, California constitute seven violations of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA, 15 U.S.C. § 2689.

PROPOSED CIVIL PENALTY

Section 16(a) of TSCA authorize the Administrator of the United States Environmental Protection Agency ("EPA") to assess a civil penalty not to exceed \$25,000 per day for each violation of Section 409 of TSCA, 15 U.S.C. § 2689. This statutory maximum civil penalty has been raised to \$37,500 per day for each violation that occurred after January 12, 2009 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and its implementing regulation, the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19.

Based upon the nature, circumstances, extent, and gravity of the violations alleged above and, with respect to the violator, ability to pay, effect on ability to continue to do business, and history of prior such violations, the degree of culpability, and other factors as justice may require, and as set forth in Section 16(a)(2)(B) of TSCA, Complainant requests that the Administrator assess against Respondent a civil penalty of up to \$37,500 for each violation that occurred after January 12, 2009.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 et seq., and 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. A copy of the Consolidated Rules of Practice is enclosed with this Complaint.

You must file a written Answer within thirty (30) days of receiving this Complaint to avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing, and to avoid having the above penalty assessed without further proceedings. If you choose to file an Answer, you are required by the Consolidated Rules of Practice to clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint to which you have any knowledge. If you have no knowledge of a particular fact and so state, the allegation is considered denied. Failure to deny any of the allegations in this Complaint will constitute an admission of the undenied allegation.

The Answer shall also state the circumstances and arguments, if any, which are alleged to constitute the grounds of defense, and shall specifically request an administrative hearing, if desired. If you deny any material fact or raise any affirmative defense, you will be considered to have requested a hearing.

The Answer must be filed with:

**Regional Hearing Clerk
USEPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105**

In addition, please send a copy of the Answer and all other documents filed in this action to:

**Ivan Lieben
Assistant Regional Counsel
Office of Regional Counsel (ORC-2)
USEPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105**

Mr. Lieben is the attorney assigned to represent EPA in this matter. His telephone number is (415) 972-3914.

You are further informed that the Consolidated Rules of Practice prohibit any ex parte (unilateral) discussion of the merits of any action with the Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

INFORMAL SETTLEMENT CONFERENCE

EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement through informal conferences. Therefore, whether or not you request a hearing, you may confer informally with EPA through Mr. Lieben, the EPA attorney assigned to this case, regarding the facts of this case, the amount of the proposed penalty, and the possibility of settlement. **An informal settlement conference does not, however, affect your obligation to file an Answer to this Complaint.**

ALTERNATIVE DISPUTE RESOLUTION

The parties also may engage in any process within the scope of the Alternative Dispute

Resolution Act, 5 U.S.C. § 581 et seq., which may facilitate voluntary settlement efforts.

Dispute resolution using alternative means of dispute resolution does not divest the Presiding Officer of jurisdiction nor does it automatically stay the proceeding.

CONSENT AGREEMENT AND FINAL ORDER

EPA has the authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with you in an informal conference or through alternative dispute resolution. The terms of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by the parties would be binding as to all terms and conditions specified therein for the parties signing the Consent Agreement when the Regional Judicial Officer signs the Final Order.

DATE: 10/14/15



DOUGLAS K. MCDANIEL
Chief, Waste & Chemical Section
Air, Waste & Toxics Branch, Enforcement Division
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original and foregoing Complaint and Notice of Opportunity for Hearing, Docket Number TSCA-09-2016-0001 was filed on October 14, 2015, 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) RRP Enforcement Response and Penalty Policy

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

Gabe Cooley
Chief Executive Officer
Rayco Development Solutions, Inc.
3541 Investment Boulevard
Hayward, CA 94545

Dated: _____

10/14/2015



Beatrice Plack
Administrative Support
Enforcement Division
U.S. EPA, Region IX