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H. MATSON

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105-3901

13 NOV 1992

CERTIFIED MAIL No. P424454988
RETURN RECEIPT REQUESTED

Mr. W. Ray Hill
President
Zonia Company, Inc.
212 S. Marina St.
Prescott, AZ 86303

Subject: Finding of Violation and Order for Compliance. Docket No. IX-FY93-09.

Dear Mr. Hill:

Enclosed is a Finding of Violation and Order for Compliance made by me pursuant to sections 308(a), 309 (a)(3), (a)(4), and (a)(5)(A) of the Clean Water Act ("Act") as amended [33 U.S.C. sections 1318(a), 1319 (a)(3), (a)(4), and (a)(5)(A)].

The enclosed Finding and Order relates to violations of section 301(a) of the Act [33 U.S.C. section 1311(a)] found at Zonia Mine as a result of a joint EPA and Arizona Department of Environmental Quality (ADEQ) inspection on September 1, 1992. A detailed report discussing our inspection was sent to you on October 13, 1992.

Any violation of the terms of the enclosed Order could subject the respondents to a civil action for appropriate relief pursuant to section 309(b) of the Act [33 U.S.C. section 1319(b)] and/or civil penalties not to exceed \$25,000 per day for each violation of either the Order or the Act under section 309(d) of the Act [33 U.S.C. section 1319(d)].

Additionally, section 309(c) of the Act [33 U.S.C. section 1319(c)] provides for criminal penalties in the event of either negligent or knowing violations of the Act. Negligent violations of the Act are punishable by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or imprisonment for not more than one year, or both [section 309(c)(1) of the Act]. Knowing violations of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or imprisonment for not more than three years, or by both [section 309(c)(2) of the Act].

If you have any questions, please contact Enio Sebastiani of my staff at (415) 744-1876.

Sincerely,

Catherine Kullma

for Harry Seraydarian
Director
Water Management Division

Enclosure

cc: Mr. Brian Munson of ADEQ
w/ enclosure

Mr. Reza Azizi of ADEQ
w/ enclosure

Mr. Harrison Matson of Arimetco
w/ enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, Ca. 94105-3901

In the Matter of)

Mr. W. Ray Hill)
212 S. Marina St.)
Prescott, AZ 86303)

Mr. John Rubel)
212 S. Marina St.)
Prescott, AZ 86303)

Zonia Company, Inc.)
212 S. Marina St.)
Prescott, AZ 86303)

Zonia Landfill, Inc.)
212 S. Marina St.)
Prescott, AZ 86303)

Docket No. IX-FY93-09

Proceedings under sections 308(a))
and 309(a)(3), (a)(4) and)
(a)(5)(A) of the Clean Water)
Act as amended, 33 U.S.C. sections)
1318(a) and 1319(a)(3), (a)(4),)
and (a)(5)(A).)

FINDING OF VIOLATION)
AND)
ORDER FOR COMPLIANCE)

STATUTORY AUTHORITY

The following Findings are made and Order issued to W. Ray Hill, John Rubel, Zonia Company, Inc. and Zonia Landfill, Inc. (collectively, "the respondents") pursuant to the authority vested in the Administrator of the Environmental Protection Agency (EPA) by sections 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Clean Water Act, as amended ("Act"), 33 U.S.C. section 1318(a), and sections 1319(a)(3), (a)(4), and (a)(5)(A). This authority has been delegated to the Regional Administrator of EPA, Region 9, and re-delegated by the Regional Administrator to the Director, Water Management Division, Region 9.

FINDING OF VIOLATION

On the basis of the following facts, the Director of the Water Management Division of EPA, Region 9, finds that the respondents are in violation of section 301(a) of the Act, 33 U.S.C. section 1311(a):

1) Section 301(a) of the Act prohibits the discharge of any pollutants to waters of the United States except in compliance with section 301, 302, 306, 307, 318, 402, and 404 of the Act, [33 U.S.C. sections 1311, 1312, 1316, 1317, 1328, 1342, and 1344] and any such discharge must be authorized by a valid National Pollutant Discharge Elimination System (NPDES) permit.

2) Respondent Zonia Company owns a non-operational copper mine, Zonia Mine ("Mine"), which is located in a rural area about six miles east of Kirkland Junction and U.S. Highway 89 in Yavapai County, Arizona. Respondent W. Ray Hill is the President of Zonia Company and one of the stockholders in this closely-held corporation. Mr. Hill directs much of the company's current environmental compliance efforts. Respondent John B. Rubel is the Vice-President of Zonia Company and a stockholder in the company, as well.

3) In 1990, Zonia Company sold 200 of the Mine's 700 patented acres to the Zonia Landfill, Inc. for use as a prospective landfill site. Available evidence suggests that there is a substantial risk that Mine leachate is percolating from Zonia Landfill's property into groundwater and then being transported to surface water. Available evidence further suggests that surface discharges of leachate from this part of the Mine have probably flowed into surface water in the past.

4) The drainage of the Mine area enters French Gulch, a tributary to the Hassayampa River. French Gulch and the Hassayampa River are "waters of the United States" as defined by section 502(7) of the Act, 33 U.S.C. section 1362(7), and by EPA regulations in 40 C.F.R. section 122.2.

5) Section 301(a) of the Act prohibits the discharge of any pollutants into waters of the United States except in compliance with certain sections of the Act, including section 402, 33 U.S.C. section 1342. Section 402 of the Act authorizes EPA to issue NPDES permits allowing for the discharge of pollutants into waters of the United States. Compliance with section 301(a) of the Act therefore requires, inter alia, compliance with a valid NPDES permit.

6) Rainfall run-off percolates through the Mine's leach basins and continues to produce a leachate laden with minerals. The Mine has some leachate collection and disposal facilities but these are inadequate. During periods of rainy weather, surface discharges of leachate from the Mine have continued to enter French Gulch. These discharges are violations of the Act.

7) In response to these discharges, EPA Region 9 issued an administrative order on July 13, 1990 pursuant to section 309(a) of the Act. This order required the Zonia Company to perform the following remedial measures by January 1, 1991: 1) repair pipelines used to transport leachate from leach basins (LB) 7-9 to the

processing plant, 2) restore and maintain operational pumps at in-situ LB 5-6, 3) test pond liners, 4) reconstruct the collection pond berm, and 5) install fencing around all ponds.¹

8) On September 1, 1992, EPA and Arizona Department of Environmental Quality (ADEQ) staff inspected Zonia Mine to determine compliance with EPA's July 13, 1990, order. Leachate was flowing into French Gulch from the base of LB 9. Leachate collection pipes with valves at the base of LB 9 were leaking. Leachate was flowing from the base of LB 7-8 and was being captured by a berm. The leachate trapped by the berm was apparently percolating into the ground. Furthermore, the pump at LB 6 was inoperational.

9) Zonia Company violated the July 13, 1990, administrative order by failing to adequately complete two items. First, Zonia Company stopped using the LB 7-9 conveyance pipelines and attempted to devise an alternate method of containing and disposing leachate from LB 7-9. This system has not entirely abated the violations, however, and thus installation of this alternate system does not constitute full compliance with the order. Second, Zonia Company has never repaired the LB 6 pump.

ORDER FOR COMPLIANCE

Considering the foregoing Findings and the potential environmental and human health effects of the violations, EPA has determined that compliance with the following requirements is reasonable. Pursuant to the authority of sections 308 and 309 of the Act, 33 U.S.C. sections 1318 and 1319, IT IS HEREBY ORDERED THAT the respondents comply with the following requirements:

10) The respondents must immediately cease all discharges of pollutants to French Gulch and any of its tributaries.

11) By December 1, 1992, the respondents shall submit to EPA a remediation plan setting forth measures which will prevent the discharge of pollutants from the Mine into French Gulch and its tributaries. The remediation plan shall set forth reasonable deadlines for the completion of all remedial measures, but in no event later than January 1, 1993. Any remedial measures which require dredge and fill work in waters of the United States must conform to section 404 of the Act. Accordingly, the work plans shall include provision for securing any and all necessary Clean Water Act section 404 permits from the U.S. Army Corps of Engineers prior to commencing work. Upon receipt of EPA approval for the plan, respondents shall implement the remediation plan.

¹ The order originally required Zonia Company to complete these remedial measures by November 1, 1990. EPA Region 9 extended this deadline until January 1, 1991.

12) W. Ray Hill, John Rubel, and Zonia Company must install and maintain an operable pump in LB 6 as was required by EPA's administrative order issued on July 13, 1990. The pump must be installed by January 1, 1993.

13) The respondents must install weirs to measure flow in French and Zonia Gulches as described in the June 14, 1991 Final Report prepared by Envirotech Solutions, Inc. The weirs must be installed by January 1, 1993.

14) The respondents must perform daily monitoring to determine whether there are any discharges of pollutants (including, but not limited to leachate solution) from the Mine into French Gulch or its tributaries. On all days when there is any discharge, the date, time, duration, and rate of discharge must be recorded. During any seven day period in which there is one, but no more than one, day of discharge, the respondents shall also take a twenty-four hour composite sample of the discharge and analyze the sample for the following: pH, TDS, Ca, Mg, Na, K, HCO₃, SO₄, NO₃, Cl, Fe, Mn, Cu, Cd, Ni, Zn, and Cr. Total recoverable and dissolved fractions shall be measured for the listed ions. During any seven day period in which there is more than one day of discharge, the respondents shall take at least two twenty-four hour composite samples of the discharge and analyze the samples as described above. If discharges do not occur, the respondents must still submit reports to EPA stating such. The reports for each month shall be due (postmarked) no later than the 15th day of the following month. Data collection and analysis shall begin in November 1992.

15) By January 1, 1993, the respondents shall submit a work plan to EPA for the removal of all sediments from the bed of French Gulch and Zonia Gulch that are contaminated with Mine-related pollutants. The work plan shall provide for the removal of such contaminated sediments by no later than February 1, 1993. Any dredge and fill work in waters of the United States undertaken pursuant to the plan must conform to section 404 of the Act. Accordingly, the work plans shall include provision for securing any and all necessary Clean Water Act section 404 permits from the U.S. Army Corps of Engineers prior to commencing work. Upon receipt of EPA approval for the plan, respondents shall implement the plan.

16) By January 1, 1993, the respondents shall submit a work plan to EPA for the completion of a remedial investigation of the extent of subsurface contamination beneath the Mine. The investigation shall determine whether the contamination of soils and/or aquifers underlying the Mine have contributed to or increased the potential risk of the contamination of any surface waters, including but not limited to the portion of French Gulch and Zonia Gulch with perennial flow. The investigation shall examine subsurface contamination under both the portion of the Mine owned by Zonia

Company and the portion owned by Zonia Landfill. The work plan shall provide for the completion of the study by no later than April 1, 1993. Upon receipt of EPA approval for the plan, respondents shall implement the plan.

OTHER REQUIREMENTS AND CONDITIONS

17) All reports submitted pursuant to the requirements of this Order shall be signed by a principal executive officer of the Zonia Company and Zonia Landfill [as specified by 40 CFR section 122.22(b)(2)] and shall include the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

18) All submissions requested by this Order shall be mailed to the following addresses:

U.S. Environmental Protection Agency
Attention: Mr. Ken Greenberg, Chief
NPDES Compliance Section (W-5-3)
Water Management Division
75 Hawthorne Street
San Francisco, CA 94105

Arizona Department of Environmental Quality
Attention: Mr. Brian Munson, Assistant Director
Office of Water Quality
3033 North Central Avenue
Phoenix, AZ 85012

19) This Order does not waive or modify or in any way relieve the respondents of their obligations imposed by the Act or any other local, state, or federal law. EPA reserves the right to seek any and all remedies available under section 309(b), (c), (d), or (g) of the Act [U.S.C. sections 1319 (b), (c), (d), or (g)] for any violation cited in this Order.

20) Issuance of an Order for Compliance shall not be deemed an election by EPA to forego any administrative, civil, or criminal



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 1

| | |
|---------------------------|-------------------------|
| To Mr. Harrison Matson | From Enio Sebastiani |
| Dept./Agency Arimetco | Phone # 415-744-1876 |
| Fax # 602-745-0315 | Fax # 415-744-1873 |

NSN 7540-01-317-7368

5099-101

GENERAL SERVICES ADMINISTRATION

U.S. EPA

November 19, 1992

Mr. W. Ray Hill
President
Zonia Company, Inc.
212 S. Marina St.
Prescott, AZ 86303

Subject: Clarification of Finding of Violation and Order for Compliance. Docket No. IX-FY93-09.

Dear Mr. Hill:

This letter is a clarification of item number eleven (11) in our November 13, 1992, Finding and Order. The second sentence of item number eleven should be deleted and replaced with the following sentence: "The remediation plan shall include the deadlines set forth in this Order for the completion of all remedial measures."

If you have questions, please contact Enio Sebastiani of my staff at (415) 744-1876.

Sincerely,

Ken Greenberg
Chief
NPDES Compliance Section

cc: Mr. Reza Azizi of ADEQ

Mr. Harrison Matson of Arimetco