



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 )  
Respondent. )  
14

**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.<sup>1</sup> Citations in this CA/FO are to California

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24  
25 <sup>1</sup> 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.



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)].

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](http://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](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

23 CTrost  
24 Colleen Trost  
25 President  
26 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


1  
2 **FINAL ORDER**  
3

4 **IT IS HEREBY ORDERED** that this Consent Agreement and Final Order ((U.S. EPA Docket  
5 No. RCRA-09-2010-0012 ) be entered and that Respondent pay a civil penalty in the amount  
6 of **THIRTY-FIVE THOUSAND DOLLARS (\$35,000)** by wire transfer to the account of the  
7 U.S. Treasury at the Federal Reserve Bank of New York, within thirty (30) days after the  
8 Effective Date of this Consent Agreement and Final Order. A copy of the wire transfer form  
9 shall be sent to the EPA Region IX addresses specified in Section G of this Consent Agreement  
10 and Final Order within such 30-day period.  
11

12 **This Final Order shall be effective upon filing.**  
13  
14  
15

16 08/05/10

17 Date



18 Steven Jawgiel  
19 Regional Judicial Officer  
20 United States Environmental Protection Agency,  
21 Region IX  
22  
23  
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25  
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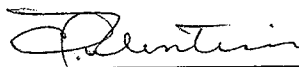
## CERTIFICATE OF SERVICE

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