

REGION 9 SAN FRANCISCO, CA 94105

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IN	THE	MAT	TER	OF:	

Salt River Project Agricultural Improvement and Power District P.O. Box 52025 Phoenix, Arizona 85072-2025 EPA ID No. NND074452426 Docket No. RCRA-09-2024-0026

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

Respondent

EXPEDITED SETTLEMENT AGREEMENT

- 1. The U.S. Environmental Protection Agency ("EPA") is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Sections 3008 and 4005(d) of the Resource Conservation and Recovery Act ("RCRA") and 40 C.F.R. § 22.13(b).
- 2. By copy of this letter, EPA is providing the State of Arizona and the Navajo Nation with notice of the referenced violations of Subtitle D of RCRA as required by Section 3008(a)(2).
- 3. Salt River Project Agricultural Improvement and Power District ("Respondent") is the owner or operator of the Navajo Generating Station, located at Coordinates: 36.904006, -111.389435, in the Navajo Nation, Arizona, EPA Identification Number NND074452426 (the "Facility"). EPA inspected the Facility on April 26 and 27, 2022. EPA alleges that the Respondent violated 40 C.F.R. §§ 257.102(b)(3)(ii) and (iii) by failing to timely amend the closure plan for the coal combustion residuals ("CCR") landfill at the Facility.
- 4. According to 40 C.F.R. § 257.102(b)(3)(ii)(A), the owner or operator of a CCR unit must amend the written closure plan whenever there is a change in the operation of the CCR unit that would substantially affect the written closure plan in effect. 40 C.F.R. § 257.102(b)(3)(iii) requires the owner or operator to amend the closure plan at least 60 days prior to a planned change.
- 5. The Facility ceased operations in 2019, and Respondent has begun the process to close

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the CCR landfill at the Facility. Despite significant changes in operation at the Facility in 2019, Respondent did not amend the closure plan until June 29, 2022.

- 6. EPA and Respondent agree that settlement of this matter for civil penalties of One Thousand Two Hundred and Fifty dollars (\$1,250) is in the public interest.
- 7. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing to contest any issues of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (7) consents to electronic service of the filed ESA.
- 8. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the alleged violations have been corrected and Respondent has submitted true and accurate documentation of such correction.
- 9. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Expedited Settlement Agreement and Final Order and to execute and legally bind Respondent to it.
- 10. Within thirty (30) calendar days of the effective date of this Agreement, Respondent must pay the civil penalty of \$1,250 using any method provided on the following website: <u>https://www.epa.gov/financial/makepayment</u>. Such payment shall identify Respondent by name and include the docket number assigned to this Agreement by the Regional Hearing Clerk.
- 11. Within 24 hours of payment, email proof of payment (e.g., a copy of the check or a statement of affirmation regarding electronic funds transfer), including Respondent's name, complete address, and docket number to the following:

Regional Hearing Clerk U.S. Environmental Protection Agency, Region IX 75 Hawthorne Street San Francisco, California 94105 <u>R9HearingClerk@epa.gov</u> In the matter of Salt River Project - Navajo Generating Station Docket No. RCRA-09-2024-0026

Daniel Fernandez Environmental Scientist U.S. Environmental Protection Agency, Region IX 75 Hawthorne Street San Francisco, California 94105 <u>fernandez.daniel@epa.gov</u>

- 12. EPA reserves all its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
- 13. Each party shall bear its own costs and fees, if any.
- 14. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, states or local income tax purposes.
- 15. Entry of the Final Order and Payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
- 16. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing by the Regional Judicial Officer.

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6938(a), and according to the terms of this Expedited Settlement Agreement and Final Order, IT IS HEREBY ORDERED THAT:

17. This Expedited Settlement Agreement be entered, and that Respondent pay a civil administrative penalty in the amount of \$1,250.00 and comply with the terms and conditions set forth in this Agreement. This Expedited Settlement Agreement and Final Order shall become effective upon filing with the Regional Hearing Clerk.

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IT IS SO AGREED,

KENNETH JOE FRAZIER Name (print):

DIRECTOR POWER GENERATION MAJOR PROJECTS

Title (print):

2 Joe Frazien Date: 3/20/2024

Signature

APPROVED BY EPA:

AMY MILLER-BOWEN Digitally signed by AMY MILLER-BOWEN Date: 2024.03.26 07:16:01 -07'00'

Date:

Amy C. Miller-Bowen, Director **Enforcement and Compliance Assurance Division** U.S. EPA Region IX

IT IS SO ORDERED:

Date: _____

Steven Jawgiel **Regional Judicial Officer** U.S. EPA Region IX

CERTIFICATE OF SERVICE

I hereby certify that the original copy of the foregoing Expedited Settlement Agreement and Final Order in the matter of Salt River Project Agricultural Improvement and Power District (Docket No. RCRA-09-2024-0026), was filed with the Regional Hearing Clerk, Region IX, and that a true and correct copy was sent by electronic mail to the following parties:

RESPONDENT:	Andrea Martinez Manager Water Quality & Waste Management Services PAB 359 P.O. Box 52025 Phoenix, AZ 85072-2025 Andrea.Martinez@srpnet.com
COMPLAINANT:	Andrew Helmlinger Assistant Regional Counsel U.S. EPA – Region IX 75 Hawthorne Street San Francisco, CA 94105 Helmlinger.Andrew@epa.gov

Ponly Tu Regional Hearing Clerk U.S. EPA – Region IX