



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

FILED

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U.S. EPA REGION IX
REGIONAL HEARING CLERK

July 6, 2011

DOCKET NO: CAA (112r)-09-2011-0017

This ESA is issued to: Producers Dairy Foods, Inc
250 E. Belmont Ave.
Fresno, CA 93701

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Producers Dairy Foods, Inc - 250 E. Belmont Ave., Fresno, CA 93701

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Jane Diamond, Superfund Director, and Producers Dairy Foods, Inc ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

I. Respondent was required to review and update its risk management plan ("RMP") for the stationary source referenced above and submit it to EPA, as required by Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.150(c), 68.190(a) and 68.195, by December 27, 2010. Respondent failed to review and update its RMP and submit it to EPA on or before December 27, 2010 in violation of Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.150(c), 68.190(a) and 68.195

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, economic benefit, and other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$2000.00**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C §7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own attorney's fees and costs, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed above and has sent a cashier's check or certified check (payable to the Treasurer, United States of America) in the amount of **\$2000.00** in payment of the full penalty amount to the following address:

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

Or the Respondent has the option to do an Online Payment through the Department of Treasury: WWW.PAY.GOV. (Enter SFO 1.1 in search field. Open form and complete required fields).

The check or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the Cincinnati Finance Center. This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Karen Henry (SFD-9-3)
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT – Producers Dairy Foods, Inc

Signature: _____



Date: _____

8/5/11

Name (print): Scott Shehadey

Title (print): Operations Manager

FOR COMPLAINANT:

Jane Diamond
Superfund Director
U.S. EPA Region IX

Date: _____

8/10/11

It is hereby ORDERED that this ESA be entered and Respondent pay the above penalty.

Steven L. Jawgiel
Chief Judicial Officer
U.S. EPA Region IX

Date: _____

08/25/11

CERTIFICATE OF SERVICE

I certify that the originals of the fully executed Expedited Settlement Agreement against **Producers Dairy Foods, Inc. (Docket #: CAA(112r)-09-2011-0017)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

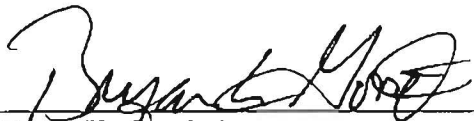
A copy was mailed via CERTIFIED MAIL to:

Scott Shehadey
Producers Dairy Foods, Inc.
250 E. Belmont Avenue
Fresno, CA 93701

CERTIFIED MAIL NUMBER: 7008-1140-0004-5420-7166

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Michael Hingerty, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX



Date



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

CERTIFIED MAIL NO.: 7008 1140 0004 5420 7166
Return Receipt Requested

AUG 9 9 2011

Scott Shehadey
Producers Dairy Foods, Inc.
250 E. Belmont Ave
Fresno, CA 93701

Re: *Producers Dairy Foods, Inc., Fresno, CA*
RMP Facility ID#: 1000 0012 7089

Dear Mr. Shehadey:

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act Section 112(r)7 by Producers Dairy Foods, Inc., located at 250 E. Belmont Ave, Fresno, CA 93701. The violation involves failure to resubmit or update Risk Management Plan information by December 27, 2010, as required by 40 CFR Part 68.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the Clean Air Act Section 112(r)(7) requirements, please feel free to contact Karen Henry of my staff at (415) 972-3844.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Diamond".

Jane Diamond
Director, Superfund Division

Enclosures