

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

FILED

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2012 APR 11 PM 1:27

DOCKET NO: CAA (112r)-09-2012-0005
This ESA is issued to: River Island Fresh Cold Storage, Inc.
200 N. Uruapan Way
Dinuba, CA 93618

U.S. EPA, REGION IX
REGIONAL HEARING CLERK

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Jody Fresh Cooling Company – 4731 Avenue 400, Dinuba, CA 93618

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 River Island Fresh Cold Storage, 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

- 1) Review and update the RMP and submit it to U.S. EPA by the five year anniversary date of **May 20, 2010**, as required by Section 112(r)(7) of the Clean Air Act (the Act), and 40 C.F.R. §68.190(b)(1). Respondent submitted an updated RMP to EPA on February 08, 2012, which was 629 days overdue.
- 2) Update emergency contact information within 30 days as required by Section 112(r)(7) of the Act and 40 C.F.R. §68.195(b).

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, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$1,800**.

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 have sent an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) or **alternatively send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$1,800.00** 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

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:

Angie Proboszcz (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 30 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 - ~~River Island~~ Fresh Cold Storage, Inc.

Signature: 

Date: 3/9/12

Name (print): Keith Wilson

Title (print): Owner/President

FOR COMPLAINANT:

 _____

Date: 4-5-12

Jane Diamond
Superfund Director
U.S. EPA Region IX

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

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

Date: 4/11/12

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement with RIVER ISLAND FRESH COLD STORAGE, INC. (Docket #: CAA(112r)-09-2012-0005) 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:

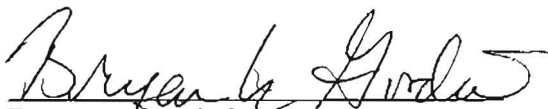
A copy was mailed via CERTIFIED MAIL to:

Mr. Keith Wilson
Owner/President
River Island Fresh Cold Storage, Inc.
200 N. Uruapan Way
Dinuba, CA 93618

CERTIFIED MAIL NUMBER: 7000 0520 0025 3711 2537

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

Thanne Cox, 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

4/11/12



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

75 Hawthorne Street, San Francisco, CA 94105

APR 11 2012

CERTIFIED MAIL NO.: 7000 0520 0025 3711 2537
Return Receipt Requested

Mr. Keith Wilson
Owner/President
River Island Fresh Cold Storage, Inc.
200 N. Uruapan Way
Dinuba, CA 93618

Re: Jody Fresh Cooling Company, 4731 Avenue 400, Dinuba, CA 93618
RMP Facility ID # 1000 0012 0326

Dear Mr. Wilson,

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act (CAA) Section 112(r)(7) at Jody Fresh Cooling Company, 4731 Avenue 400, Dinuba, CA 93618. The violations involve failure to resubmit or update Risk Management Plan information by May 20, 2010 and failure to update emergency contact information within 30 days of a change.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the CAA Section 112(r)(7) requirements, please feel free to contact Angie Proboszcz of my staff at (415) 972-3077.

Sincerely,

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

Jane Diamond
Director, Superfund Division

Enclosures