

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CALIFORNIA 94105

FILED  
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2011 JAN 13 PM 3:3  
U.S. EPA, REGION IX  
REGIONAL HEARING CLERK

IN RE: )  
)  
) DOCKET NO. CAA-9-2011-0009  
LEADING EDGE AVIATION SERVICES, INC., )  
) CONSENT AGREEMENT AND  
) FINAL ORDER  
)  
RESPONDENT )  
)  
\_\_\_\_\_ )

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX ("EPA") and Leading Edge Aviation Services, Inc., ("Respondent") agree to settle this case initiated under the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. §§ 7401 et seq., and consent to the entry of this Consent Agreement and Final Order ("CAFO").

A. AUTHORITY

1. EPA initiated this civil administrative proceeding for the assessment of a civil administrative penalty pursuant to Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, by issuing a Complaint and Notice of Opportunity for Hearing (the "Complaint") against Respondent on September 30, 2011.
2. The Complaint alleges that Respondent violated Mojave Air Quality Management District Rule 1118 ("Rule 1118"), and Sections 110 and 114 of the Act, 42 U.S.C. §§ 7410 and 7414, by using spray equipment which failed to meet the minimum requirements set forth in

Rule 1118, and by failing to fully and accurately respond to an information request issued by EPA to Respondent in a letter dated June 11, 2008.

3. EPA and Respondent have agreed to resolve this civil administrative proceeding arising under the Act by executing this CAFO pursuant to 40 C.F.R. § 22.18(b).

B. RESPONDENT'S ADMISSIONS

4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the Complaint; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.C. of this CAFO; (iv) waives any right to contest the allegations contained in the Complaint; and (v) waives the right to appeal the proposed final order contained in this CAFO.

C. CIVIL ADMINISTRATIVE PENALTY

5. Respondent hereby consents to the assessment of a civil penalty in the amount of FORTY-ONE THOUSAND SIX HUNDRED AND FIFTY DOLLARS (\$41,650) as full, final, and complete settlement of the civil claims alleged in the Complaint. Respondent shall pay this penalty within 30 days of the effective date of this CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," and shall be sent by certified mail, return receipt requested, to the following address:

Regular Mail:

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

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Overnight Mail:

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

ATTN Box 979077

St. Louis, MO 63101

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

ABA = 051036706

Transaction Code 22 – checking

Environmental Protection Agency

Account 31006

CTX Format

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov

Enter "sf01.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

In addition, a copy of each check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter indicating Respondents' names, the case title, and the docket number to: and mailed to:

- a) Regional Hearing Clerk (ORC-1)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105
- b) Chief, Air Enforcement Office (AIR-5)  
Air Division  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105
- c) Allan Zabel  
Senior Counsel (ORC-2)  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105

6. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

7. If Respondent fails to pay the civil administrative penalty specified in Paragraph 5 within 30 days of the effective date of this CAFO, then Respondent shall, upon EPA's written request, pay to EPA a stipulated penalty of TWO HUNDRED DOLLARS (\$200) per day for each day that payment is late. This stipulated penalty amount to be paid is in addition to the penalty

amount specified in Paragraph 5.

8. Pursuant to 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3731, Respondent shall pay the following amounts:

a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of this CAFO.

b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid for any month in which any portion of the assessed penalties is more than 30 days past due.

c. Attorney Fees, Collection Costs, Nonpayment Penalty: Pursuant to 42 U.S.C. § 7413(d)(5), if Respondent fails to pay on a timely basis the full amount of the assessed penalty, interest, and handling charges, they shall be liable for the United States' enforcement and collection expenses, including, but not limited to, attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding or overdue penalties and nonpayment penalties accrued from the beginning of such quarter.

#### D. RETENTION OF RIGHTS

9. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violation and facts specifically alleged in the Complaint. Nothing in this CAFO is intended to or shall be construed to resolve (I) any civil liability for violations of

any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in the Complaint; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the Complaint.

10. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

#### E. ATTORNEYS' FEES AND COSTS

11. Except as set forth in Paragraph 8(c) above, each party shall bear its own costs, fees, and disbursements incurred in this action.

#### F. EFFECTIVE DATE

12. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

#### G. BINDING EFFECT

13. The undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

14. This Consent Agreement constitutes the entire agreement between the parties resolving this matter arising under the CAA.

15. The provisions of this CAFO shall be binding on Respondent and its, directors,


employees, agents, servants, authorized representatives, successors, and assigns.

16. This document constitutes an "enforcement response" as that term is used in EPA's Penalty Policy for the purposes of determining Respondent's "full compliance history" as provided in Section 113(e) of the Act, 42 U.S.C. § 7413(e).

FOR LEADING EDGE AVIATION SERVICES, INC.:


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1.3.12  
DATE

  
Michael Manclark, President  
Leading Edge Aviation Services, Inc.

FOR COMPLAINANT EPA REGION IX:


1-9-12  
DATE

  
Deborah Jordan, Director  
Air Division  
United States Environmental  
Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105

II. FINAL ORDER

EPA and Respondent, having entered into the foregoing Consent Agreement, IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2011-0009) be entered, and Respondent shall pay a civil administrative penalty in the amount of \$41,650, and otherwise comply with the terms set forth in the CAFO.

01/13/12  
DATE

  
STEVEN JAWGIEL  
Regional Judicial Officer  
United States Environmental  
Protection Agency, Region IX



## CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, United States Environmental Protection Agency – Region 9, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of the Consent Agreement and Final Order was placed in the United States Mail, certified mail, return receipt requested, addressed as follows:

Mr. Bradley M. Marten, Esq.  
Marten Law PLLC  
1191 Second Avenue  
Suite 2200  
Seattle, Washington 98101

Certified Mail Number: 7010 3090 0001 2472 7746

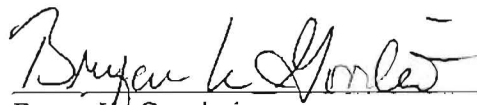
An additional copy was placed in the United States Mail, addressed as follows:

Mr. William Manclark  
President  
Leading Edge Aviation Services, Inc.  
19301 Campus Drive, Suite 250  
Santa Ana, CA 92707

In addition, a copy was hand delivered to:

Allan Zabel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Dated: 1/13/12



Bryan K. Goodwin  
Regional Hearing Clerk  
Office of Regional Counsel (ORC-1)  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105



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

JAN 09 2012

Mr. William Manclark  
President  
Leading Edge Aviation Services, Inc.  
19301 Campus Drive  
Suite 250  
Santa Ana, CA 92707

re: Leading Edge Aviation Services, Inc. – Victorville Facility

Dear Mr. Manclark:

Enclosed is your copy of the Consent Agreement and Final Order (“CAFO”) filed pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. §§ 7401-7671q. If you have any questions concerning the CAFO, please contact Mark Sims of my staff at (415) 972-3965 or Allan Zabel, Office of Regional Counsel, at (145) 972-3902.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Jordan".

Deborah Jordan  
Director, Air Division

Enclosure

cc: Mr. Eldon Heaston (MDVAPCD)  
Mr. James Ryden (CARB)  
Mr. Brad Marten, Esq. (Marten Law)