



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

OCT 18 2018

REPLY TO THE ATTENTION OF  
SC-5J

John Burke  
Environmental Manager  
Kendall Energy  
1401 County Line Road  
Minooka, Illinois 60447  
John.burke@vistraenergy.com

RE: Complaint and Expedited Settlement Agreement  
ESA Docket No. RMP-18-ESA-013  
Docket No. CAA-05-2019-0001

Dear Mr. Burke:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M.E. Hans", with a long horizontal line extending to the right.

Michael E. Hans, Chief  
Chemical Emergency  
Preparedness & Prevention Section

Enclosure



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, ILLINOIS 60604-3590



CAA-05-2019-0001

**DOCKET NO: RMP-18-ESA-013**

**This ESA is issued to: Dynegy Kendall Energy, LLC**

**at: 1401 County Line Road, Minooka, Illinois 60447**

**for violations of Section 112(r)(7) of the Clean Air Act.**

**EXPEDITED SETTLEMENT AGREEMENT**

The United States Environmental Protection Agency, Region 5, and Dynegy Kendall Energy, LLC (“Respondent”), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly “the Parties”) have agreed that settling this action without the filing of a Complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement (“ESA”) and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA’s authority under Sections 113(a)(3) and (d) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA (“Complainant”) has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3) and (d)(1), to issue a Final Order ratifying this ESA. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) to the Regional Judicial Officer, Office of Regional Counsel, EPA Region 5.

**ALLEGED VIOLATIONS**

On March 13, 2018, an authorized EPA representative conducted a compliance inspection of Dynegy Kendall Energy, LLC (“Facility”) to determine its compliance with the Risk Management Program (“RMP”) regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the March 13, 2018 inspection, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.50(c) Respondent failed to document results of the hazard review and ensure that problems identified are resolved in a timely manner.
2. 40 C.F.R. § 68.50(d) Respondent failed to conduct a hazard review whenever a major change in the process occurred.

3. 40 C.F.R. § 68.54(d) Respondent failed to ensure that operators are trained in any updated or new procedures prior to startup of a process after a major change.
4. 40 C.F.R. § 68.58(d) Respondent failed to promptly determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected.
5. 40 C.F.R. § 68.60(a) Respondent failed to investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release.
6. 40 C.F.R. § 68.60(c) Respondent failed to prepare an investigation summary which includes the date of the investigation.

### **SETTLEMENT**

In consideration of Respondent's size of business, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$2,700**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$2,700** in payment of the full penalty amount to the following address:

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

**The Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-18-ESA-013.)

This signed original ESA and a copy of the check must be sent by certified mail to:

Monika Chrzaszcz  
Chemical Emergency  
Preparedness and Prevention Section (SC-5J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 5 office at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below:

Each Party to this action shall bear its own costs and fees, if any.

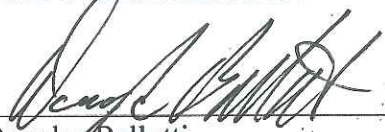
This ESA is effective upon filing with the Regional Hearing Clerk.

**Expedited Settlement Agreement**  
**In the Matter of Dynegy Kendall Energy, Minooka, Illinois**  
Docket No. CAA-05-2019-0001

**FOR RESPONDENT:**

Signature: Randy O'Keefe Date: 10/3/18  
Name (print): Randy O'Keefe  
Title (print): Managing Director - Dynegy Kendall Energy  
Respondent

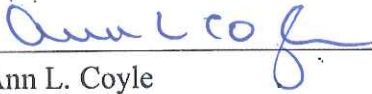
**FOR COMPLAINANT:**

  
\_\_\_\_\_  
Date: 10/19/2018  
Douglas Ballotti,  
Acting Director  
Superfund Division

**FINAL ORDER**

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**IT IS SO ORDERED.**



Date: 10/17/18

Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5

Expedited Settlement Agreement  
In the matter of: Dynege Kendall Energy, LLC, Minooka, Illinois  
Docket Number: CAA-05-2019-0001

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, docket number CAA-05-2019-0001 which was filed on October 18, 2018 in the following manner to the following addresses:

Copy by E-mail to  
Respondent:

John Burke  
John.burke@vistraenergy.com

Copy by E-mail to  
EPA Program Staff:

Monika Chrzaszcz  
Chrzaszcz.monika@epa.gov

Copy by E-mail to  
Attorney for Complainant:


Steven Kaiser  
kaiser.steven@epa.gov

Copy by e-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated:

October 18, 2018



LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5