

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, ILLINOIS 60604-3590

**DOCKET NO:** RMP-20-ESA-011**This ESA is issued to:** Big River Resources Galva, LLC**at:** 1100 SE 2<sup>nd</sup> Street, Galva, Illinois 61434**for violations of Section 112(r)(7) of the Clean Air Act.** CAA-05-2020-0027**EXPEDITED SETTLEMENT AGREEMENT**

The United States Environmental Protection Agency, Region 5, and Big River Resources Galva, 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 Enforcement & Compliance Assurance 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 April 24, 2019, authorized EPA representatives conducted a compliance inspection of the Respondent’s facility to determine its compliance with the Risk Management Plan (“RMP”) regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the April 24, 2019 inspection, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.65(c)(1)(iv): Respondent failed to have up to date process safety information pertaining to the technology of the anhydrous ammonia storage tank that included safe upper and lower operating limits.
2. 40 C.F.R. § 68.65(c)(1)(v): Respondent failed to have up to date process safety information pertaining to the technology of the anhydrous ammonia storage tank and the denaturant storage tank that included an evaluation of the consequences of deviation.



3. 40 C.F.R. § 68.67(c)(1): Respondent failed to address in the December 2014 process hazard analysis, the hazards associated with unloading the denaturant into the storage tank.
4. 40 C.F.R. § 68.69(a)(1)(iv): Respondent failed to address in its operating procedures the steps for emergency shutdown including the conditions under which an emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.
5. 40 C.F.R. § 68.69(a)(1)(v): Respondent failed to address in its operating procedures for the anhydrous ammonia tank and the denaturant storage tank, the steps for emergency operations.
6. 40 C.F.R. § 68.69(a)(1)(vi): Respondent failed to address in its operating procedures for the anhydrous ammonia tank and the denaturant storage tank, the steps for normal shutdown.
7. 40 C.F.R. § 68.69(a)(1)(vii): Respondent failed to address in its operating procedures for the anhydrous ammonia tank and the denaturant storage tank, the steps for startup following a turnaround, or after emergency shutdown.
8. 40 C.F.R. § 68.69(a)(2)(i): Respondent failed to address in its operating procedures for the anhydrous ammonia storage tank and the denaturant storage tank, the operating limits that included the consequences of deviation.
9. 40 C.F.R. § 68.69(a)(2)(ii): Respondent failed to address in its operating procedures for the anhydrous ammonia storage tank and denaturant storage tank, the operating limits that included the steps required to correct or avoid deviation.
10. 40 C.F.R. § 68.73(e): Respondent failed to correct or address the visible corrosion on the unpainted anhydrous ammonia pipeline as recommended in the mechanical integrity inspection report.

## **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 **\$8,700**.

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 **\$8,700** 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-20-ESA-011.)

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

Silvia Palomo  
Chemical Emergency  
Preparedness and Prevention Section (SE-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 Big River Resources Galva, LLC  
Docket No. RMP-20-ESA-011

FOR RESPONDENT:

Signature: Deborah J. Green  
Name (print): Deborah J. Green  
Title (print): Chief Operating Officer  
Respondent

Date: 6/30/20

FOR COMPLAINANT:

**MICHAEL HARRIS** Digitally signed by MICHAEL HARRIS  
Date: 2020.08.04 19:21:00 -05'00'

Date: \_\_\_\_\_

Michael D. Harris  
Director  
Enforcement and Compliance Assurance 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.**

**ANN COYLE** Digitally signed by ANN  
COYLE  
Date: 2020.08.06  
10:08:50 -05'00'

Date: \_\_\_\_\_

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