



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

**MAY 10 2012**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Howard Jacobson  
Operations Manager, Water Supply  
Lakewood Water Treatment Plant  
520 Garfield Avenue  
Duluth, Minnesota 55802

RE: Expedited Settlement Agreement  
ESA Docket No. RMP-12-ESA-013  
Docket No. CAA-05-2012-0024

SD# 2751203A026

Dear Mr. Jacobson:

Enclosed please find a copy of the fully executed Risk Management Plan Expedited Settlement Agreement (ESA). The ESA is binding on the U.S. Environmental Protection Agency and the Lakewood Water Treatment Plant. EPA will take no further action against the Lakewood Water Treatment Plant for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Mr. Greg Chomycia at (312) 353-8217, or [chomycia.greg@epa.gov](mailto:chomycia.greg@epa.gov), if you have any questions regarding the enclosed document or if you have any other questions about the program. Thank you for your assistance in resolving this matter.

Sincerely,

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

RECEIVED

MAY 10 2012

2751203A026

CAA-05-2012-0024

DOCKET NO: RMP-12-ESA-013

**This ESA is issued to:** Lakewood Water Treatment Plant  
**at:** 8130 Congdon Avenue, Duluth, Minnesota  
**for violations of Section 112(r)(7) of the Clean Air Act.**

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**EXPEDITED SETTLEMENT AGREEMENT**

The United States Environmental Protection Agency, Region 5, and the Lakewood Water Treatment Plant ("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.

**ALLEGED VIOLATIONS**

EPA received an August 8, 2011 response ("Response") to an information request sent on July 7, 2011 to the Respondent for a facility located at 8130 Congdon Avenue, Duluth, Minnesota ("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 Response submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.190-Respondent failed to submit a revised and updated RMP within five years of the initial submission or most recent required update.

**SETTLEMENT**

In consideration of the municipal budget of Respondent, 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 **\$1,200.00**

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 **\$1,200.00** 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-12-ESA-013.)

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

Mr. Greg Chomycia  
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 there under, or any other applicable law or requirement.

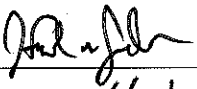
If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without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

**FOR RESPONDENT:**

Signature:   
Name (print): Howard M. Jacobson  
Title (print): Manager, Gas & Water Supply  
Respondent

Date: 4/19/12

**FOR COMPLAINANT:**

  
Richard C. Karl, Director  
Superfund Division

Date: 5/4/12

**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: 5-8-12

Susan Hedman  
Regional Administrator

RECEIVED  
MAY 10 2012  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

