



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

AUG 16 2016

Mr. JB Smith, President
Agave Red Hills GPP
105 South Fourth Street
Artesia, NM 88210

Re: Expedited Settlement Agreement – Final Order
Docket No. CAA-06-2016-3516

Dear Mr. Smith:

Enclosed for your records is a copy of the fully executed Expedited Settlement Agreement (ESA) for the Clean Air Act Section 112(r) violations found at Agave Red Hills GPP located in Jal, New Mexico.

If you have any questions regarding this matter, please do not hesitate to call. I may be reached by phone at (214) 665-6708 or by email at rogers.elizabeth@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "E. Rogers".

Elizabeth Rogers
RMP Enforcement Officer
Emergency Management Branch
EPA Region 6

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

FILED

EXPEDITED SETTLEMENT AGREEMENT (ESA) AUG 16 AM 9:00

REGIONAL HEARING CLERK
EPA REGION VI

DOCKET NO: 06-2016-3516

This complaint is issued to: Agave Red Hills GPP

At: 1934 W NM Highway 128, Jal, NM

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

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 6, by its duly delegated official, the Director, Superfund Division, and by 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). On August 13, 2003, EPA 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.

On May 10, 2016, an authorized representative of the EPA conducted a compliance inspection of the subject facility (Respondent) to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the regulations as noted on the attached RISK MANAGEMENT PLAN INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY SHEET ("FORM"), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record the parties enter into the ESA in order to settle the violations, described in the attached FORM for the total penalty amount of **\$2,100.00**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein, 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 costs and fees, 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 in the attached FORM and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$2,100.00** in payment of the full penalty amount to the following address:

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

The DOCKET NUMBER OF THIS EXPEDITED SETTLEMENT AGREEMENT must be included on the certified check. (The DOCKET NUMBER is located at the top left corner of this Expedited Settlement Agreement.)

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

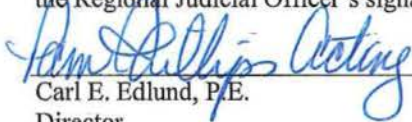
Elizabeth Rogers
RMP Enforcement Officer
Superfund Division (6SF-EP)
U. S. Environmental Protection Agency Region 6
1445 Ross Avenue, 12th Floor
Dallas, Texas 75202-2733

Upon the Respondent's signing and submission of this Settlement Agreement, EPA will take no further action against the Respondent for the alleged violations of the Clean Air Act described in the above Form. EPA does not waive any enforcement action by EPA for any other past, present, or future violations under the Clean Air Act or any other statute.

If the Settlement Agreement with an attached copy of the certified check is not returned to the EPA Region 6 office at the above address in correct form by the Respondent within 45 days of the date of the receipt of this Settlement Agreement, the Complaint and Expedited Settlement Agreement is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violations identified in this Settlement Agreement.

Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this complaint pursuant to 40 CFR § 22.14. Upon signing and returning of this Settlement Agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to Section 113(d)(2)(A) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(A).


This Settlement Agreement is binding on the EPA and the Respondent signing below. By signing below, the Respondent waives any objections to EPA's jurisdiction with respect to the Settlement Agreement and consents to EPA's approval of this Settlement Agreement without further notice. This Settlement Agreement is effective upon the Regional Judicial Officer's signature.



Carl E. Edlund, P.E.
Director
Superfund Division

Date: 6/28/16

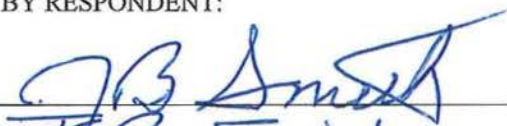
It is so ORDERED. This Order shall become effective upon filing of the fully executed Complaint and Expedited Settlement Agreement.



Thomas Rucki
Regional Judicial Officer

Date: 8/11/16

SIGNATURE BY RESPONDENT:

Signature: 
Name (print): J.B. Smith
Title (print): President
Cost of Corrective Actions: \$5787

Date: 8/5/2016

RECEIVED
16 AUG 10 AM 11:35
SUPERFUND DIV.
PREVENTION & RESPONSE
EPA/PCW/16SI/201

CERTIFICATE OF SERVICE

I hereby certify that on the **20th** day of **September 2016**, the original of the foregoing Final Order of Clean Air Act, Section 112(r) Expedited Settlement Agreement was hand delivered to the Regional Hearing Clerk, U. S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, first class postage prepaid, addressed to the following:

Mr. JB Smith, President
Agave Red Hills GPP
105 South Fourth Street
Artesia, NM 88210



Elizabeth Rogers
RMP Enforcement Officer
Emergency Management Branch
US EPA - Region 6