



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

FILED

EXPEDITED SETTLEMENT AGREEMENT (ESA) 21 SEP 15 PM 12:59

Docket No: CAA 06-2021-3362

This ESA is issued to: Branch Energy Partners, LLC. - Sherman Gas Plant [Previously owned and operated by SemGas, L.P.]

At: 880 Plainview Road, Sherman, Texas 75092

For: Violating Section 112(r)(7) of the Clean Air Act

REGIONAL HEARING CLERK
EPA REGION VI

The United States Environmental Protection Agency (EPA), through its delegated official, the Director of the Enforcement and Compliance Assurance Division, and Branch Energy Partners, LLC. - Sherman Gas Plant (Respondent) have agreed to a settlement of this action before filing a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in the EPA's Policies¹ are appropriate for administrative penalty action.

ALLEGED VIOLATION

On February 26, 2020, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located in Sherman, Texas, to determine compliance with the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The EPA found that Respondent had violated the RMP regulations and Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), as follows:

(1) 40 C.F.R. § 68.69(c) - The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

Respondent could not produce the annual certification of operating procedures at the time of the inspection and never received them from the previous owner.

(2) 40 C.F.R. § 68.79(d) - The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

Recommendations from the SemGas October 2018 RMP audit were not completed by the March 2019 target dates, which was four months before the sale of the Sherman Gas Plant to Respondent.

¹ "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions" (2013)

SETTLEMENT

In consideration of the factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the criteria set forth in EPA's policies¹, and upon consideration of the entire record, EPA and Respondent enter into this ESA in order to settle the violation, described above, for the total penalty amount of **\$1,500.00**.

This settlement is subject to the following terms and conditions:

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 Respondent has corrected the violation listed above and has paid the full penalty of **\$1,500.00** by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

The Docket Number of this ESA is CAA 06-2021-3362 and must be included on the payment. **The signed ESA and a copy of payment must be sent by email to: flores.carlos@epa.gov.**

Full payment of the ESA penalty shall only resolve Respondent's civil penalty liability for the violation alleged above. The EPA does not waive any other enforcement action by EPA for any other past, present, or future violations under the CAA or any other statute.

If the signed ESA with a copy of the payment is not returned to EPA Region 6 at the above email address in correct form by Respondent within 30 days of the date of receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violation identified in this ESA.

This ESA is binding on the EPA and Respondent and is effective upon filing with the Regional Hearing Clerk.

The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this ESA, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA: flores.carlos@epa.gov

To Respondent: GSenek@branch-energy.com

SIGNATURE BY RESPONDENT:

Signature: 

Date: 9/13/2021

Name (print): Gene A. Senek

Title (print): Area Manager

Cost of Corrective Actions: \$0

Respondent's Brief Description of Complying Action:

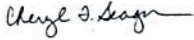
Branch acquired the Sherman Gas Plant on July 17, 2019, only 6 months prior to the date of the inspection.

Since acquisition, Branch has implemented a robust PSM and RMP program to ensure future documentation

is maintained, as required, and that all action items following compliance audits are completed timely.

If you need additional space or would like to provide additional supporting documentation, please attach to this document.

SIGNATURE BY EPA:



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
sn=CHERYL SEAGER,
o 9 2342.19200300 100 1.1-68001003651793
Date: 2021.09.15 09:48:17 -0500

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

It is so ORDERED. This Order shall become effective upon filing of the fully executed ESA with the Regional Hearing Clerk.

**THOMAS
RUCKI**

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
sn=THOMAS RUCKI,
o 9 2342.19200300 100 1.1-68001003655804
Date: 2021.09.15 10:13:38 -0500

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify, on the date identified below, a true and correct copy of the foregoing Expedited Settlement Agreement was electronically delivered to the Regional Hearing Clerk, U.S. EPA Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via email to EPA: flores.carlos@epa.gov

Copy via email to Respondent: GSenek@branch-energy.com

Gene Senek
Area Manager
Branch Energy Partners, LLC
880 Plainview Road
Sherman, TX 75092-9553

Carlos Flores
United States Environmental Protection Agency,
Region 6