



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

MAR 24 2009

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jim Whitney
Facility Plant Manager
Leprino Foods, Company
4700 Rich Street
Allendale, Michigan 49401

RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-09-ESA-001
Docket No. CAA-05-2009-0011

Dear Mr. Whitney:

Enclosed please find a copy of the fully executed Expedited RMP 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.

In response to your ESA cover letter dated March 13, 2009, EPA received all requested information from Leprino Foods, Co. prior to issuance of the ESA. The inspection report improperly noted that the "The owner or operator again stated that he would send EPA additional documentation as soon as possible. To date the information ahs not been received".

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 yours,

A handwritten signature in black ink that reads "Mark J. Horwitz".

Mark J. Horwitz, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure(s)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

**EXPEDITED SETTLEMENT
AGREEMENT (ESA)**

RECEIVED
MAR 24 2009

DOCKET NO: RMP-09-ESA-001

This ESA is issued to: Leprino Foods, Company

At: 4700 Rich Street, Allendale, Michigan 49401

for violating Section 112(r)(7) of the Clean Air Act. CAA-05-2009-0011

REPLY TO THE ATTENTION OF
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

BD#2750903A012

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 5, 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, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On November 13, 2007, 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.

ALLEGED VIOLATIONS

On July 15, 2008, 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 this ESA in order to settle the violations, described in the attached FORM, for the total penalty amount of **\$3,360.00**

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 in herein and in the FORM, 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 **\$3,360.00** in payment of the full penalty amount to the following address:

US 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 located at the top left corner of this ESA.)

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

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-6J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the FORM. EPA does not waive any other enforcement action for any other violation of the Clean Air Act or any other statute.

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 the Respondent within 45 days of the date of Respondent's receipt of it (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 herein and in the FORM.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Signature: *James L. Whitney* Date: 3/13/09
Name (print): James L. Whitney
Title (print): Plant Manager

Leprino Foods Company

FOR COMPLAINANT:

for *Richard C. Karl* Date: 3/20/09
Richard C. Karl, Director
Superfund Division

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Walter W. Kovalyk Date: 3/23/09
Bharat Mathur, Acting
Regional Administrator