



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 7 AM 8:59
 REGION 7
 901 NORTH FIFTH STREET
 KANSAS CITY, KANSAS 66101
**EXPEDITED SETTLEMENT
 AGREEMENT (ESA)**

ENVIRONMENTAL PROTECTION
 AGENCY-REGION VII
 REGIONAL HEARING CLERK

DOCKET NO: CAA-07-2007-0039

This ESA is issued to: City of Olathe Water Treatment Plant No. 2

At: 27065 W. 83rd Street, Lenexa, Kansas 66227

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

07 AUG - 7 AM 8:59
 ENVIRONMENTAL PROTECTION
 AGENCY-REGION VII
 REGIONAL HEARING CLERK

The United States Environmental Protection Agency, Region 7 (EPA) and the City of Olathe Water Treatment Plant No. 2, 27065 W. 83rd Street, Lenexa, Kansas 66227 (Respondent), have agreed to a settlement of this action before filing of 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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, RCRA and Toxics Division. The Respondent is the City of Olathe Water Treatment Plant No. 2, 27065 W. 83rd Street, Lenexa, Kansas 66227.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On September 7, 2006, an authorized representative of the EPA conducted a compliance inspection of the Respondent's Water Treatment Plant No. 2 located at 27065 W. 83rd Street, Lenexa, Kansas, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (RMP Findings), 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 enclosed RMP Findings, for the total penalty amount of **\$1000.00**.

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 RMP Findings, 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 Clean Air 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 enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1000.00** in payment of the full penalty amount to the following address:

United States Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251.

The Docket Number of this ESA is CAA-07-2007-0039, and must be included on the check.

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

Deanna Smith
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations 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 7 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 RMP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Lester Estelle Date: 7-9-07

Name (print): LESTER ESTELLE

Title (print): Assistant Water Production Superintendent
City of Olathe Water Treatment Plant No. 2

FOR COMPLAINANT:

Becky Weber Date: 8-3-07

For
Becky Weber
Director
Air, RCRA and Toxics Division
EPA Region 7

Sarah Thibos LaBoda Date: 7/26/07

Sarah Thibos LaBoda
Assistant Regional Counsel
EPA Region 7

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

Karina Borromeo Date: 8/7/07

Karina Borromeo
Regional Judicial Officer

RMP INSPECTION FINDINGS

City of Olathe
Olathe Water Treatment Plant No. 2
27065 W. 83rd Street
Olathe, Kansas 66227

CAA 112(r) Violations

VIOLATIONS

PENALTY AMOUNT

Prevention Program – Safety Information [68.48]

No Penalty

1. The owner or operator failed to maintain current Material Safety Data Sheets (MSDS) that meet the requirements of the OSHA Hazard Communication Standard at 29 C.F.R. § 1910.1200(g). [68.48(a)(1)]

How was this addressed: Contacted vendor and requested and received most current MSDS. In the future a new MSDS is required from the vendor awarded the annual chemical bid.

Prevention Program - Safety information [68.48]

No Penalty

2. The owner or operator has failed to correctly annotate on the RMP that the facility would not respond to a major release. [68.90(b)]

How was this addressed: Incorporated in the procedures in the RMP it states that Water Production personnel will not respond to a major release. The procedure states that the Olathe Fire Dept who are properly trained will respond.

Risk Management Plan [68.190 - 168.195]

\$1000.00

3. The owner or operator failed to update the emergency contact information required at 68.160(b)(6) within thirty days of the change. [68.195(b)]

How was this addressed: Contact information is updated with the most current emergency contact personnel and numbers. Emergency contact information will be maintained/updated within 30 days of any change.

TOTAL

\$1000.00

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column population > 50,000 the multiplier is 1.0.

2nd Adjusted Penalty = \$1000.00 (Unadjusted Penalty) X 1.0 (Size-Threshold Multiplier)
Adjusted Penalty = \$1000.00

3rd An Adjusted Penalty of \$1000.00 would be assessed to City of Olathe Water Treatment Plant No. 2 for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL ADJUSTED PENALTY

\$1000.00

The approximate cost to correct the above items:

\$ 1000.00

Compliance staff name: LESTER ESTELLE

Signed: Lester Estelle

Date: 7-20-07

IN THE MATTER OF City of Olathe Water Treatment Plant No. 2., Respondent
Docket No. CAA-07-2007-0039

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Sarah LaBoda
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Garry Turner
WP Superintendent
City of Olathe
Municipal Services
1385 S. Robinson
Olathe, Kansas 66061

Dated: 8/7/07


Kathy Robinson
Hearing Clerk, Region 7