



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

SEP 21 2009

CERTIFIED MAIL NO.: 7006 0810 0003 9306 2021
Return Receipt Requested

John R. Gargiulo, CEO/President
Dole Berry Company, LLC
One Dole Drive
Westlake, CA 91362

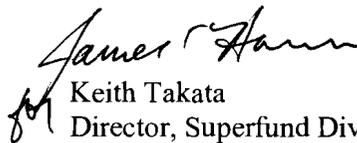
Re: Dole Berry Company - Watsonville (Coastal Berry)
RMP Facility ID#: 100000171048

Dear Mr. Murdock:

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act Section 112(r)7 by Dole Berry Company located at 480 W. Beach Street, Watsonville, CA 95076. The violation involves failure to resubmit or update Risk Management Plan information by July 11, 2005, as required by 40 CFR Part 68.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the Clean Air Act Section 112(r)(7) requirements, please feel free to contact Karin Graves of my staff at (415) 972-3153.

Sincerely,


Keith Takata
Director, Superfund Division

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

9/22/09

MEMORANDUM

SUBJECT: Dole Berry Company - Watsonville (Coastal Berry)
Clean Air Act Section 112(r) Violation
Expedited Settlement Agreement

FROM: Keith Takata, Director 
for Superfund Division

TO: Steven L. Jawgiel
Regional Judicial Officer

This memorandum transmits, for your signature, the Expedited Settlement Agreement (“ESA”) for the above-referenced Clean Air Act case.

This enforcement action resolves Risk Management Program violations under Section 112(r) of the Clean Air Act and 40 C.F.R. Part 68, in accordance with the expedited settlement approach for Clean Air Act Section 112(r) violations. The attached ESA initiates and concludes this enforcement action in accordance with 40 C.F.R. Section 22.13(b).

Attachment

CERTIFICATE OF SERVICE

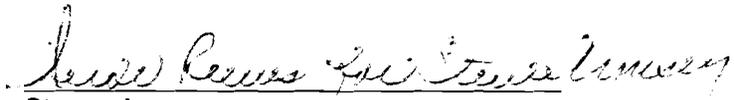
Docket No. CAA-9-2008-00

I hereby certify that the original copy of the foregoing Expedited Settlement Agreement, with the Docket number referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

John R. Gargiulo, CEO/President
Dole Berry Company, LLC
For Coastal Berry Company, LLC
One Dole Drive
Westlake, CA 91362

9/23/09

Date



Steven Armsey
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

DOCKET NO: CAA-09-2009-0071
This ESA is issued to: Dole Berry Company, LLC
One Dole Drive Westlake, CA 91362

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Dole Berry Company – Watsonville, 480 W. Beach Street Watsonville, CA 95076

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region IX, by its duly delegated official, Keith Takata, Superfund Director, and by Dole Berry Company, LLC (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 February 23, 2009, 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

Respondent was required to review and update its risk management plan (RMP) for the stationary source referenced above and submit it to EPA, as required by Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.150(c), 68.190(a) and 68.195, by July 11, 2005. Respondent failed to review and update its RMP and submit it to EPA on or before July 11, 2005 in violation of Section 112(r)(7) of the Act and 40 C.F.R. §§ 68.150(c), 68.190(a) and 68.195.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, economic benefit, 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 above for the total penalty amount of **\$1,200.00**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, 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 attorney's fees and costs, 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 above 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
P.O. Box 979077
St. Louis, MO 63197-9000

The check should reference Respondent's name and a copy of this ESA must be included with the check.

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

Karin Graves (SFD-9-3)
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Upon Respondent's submission of the original signed ESA and filing of the original signed ESA by EPA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT – Dole Berry Company, LLC

Signature: Paula Wimer

Date: 7-9-09

Name (print): Paula Wimer

Title (print): QA and Food Safety mgr

FOR COMPLAINANT:

Keith Takata
for Keith Takata
Superfund Director
U.S. EPA Region IX

Date: 9/22/09

It is hereby ORDERED that this ESA be entered and Respondent pay the above penalty.

Steven L. Jawgiel
for Steven L. Jawgiel
Chief Judicial Officer
U.S. EPA Region IX

Date: 9-23-09

COPY

303111401 NEW 03/08 8810013776

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

OFFICIAL CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



62-20/311 2356407330

COPY

MATCH THE AMOUNT IN WORDS WITH THE AMOUNT IN NUMBERS



WASHINGTON MUTUAL 1200.00 ONE TWO ZERO ZERO CT SCTS

*****Jul 31, 2009 ONE THOUSAND TWO HUNDRED DOLLARS AND 00 CENTS *****

Pay to the order of:

TREASURER UNITED STATES OF AMERICA

Drawer: Washington Mutual, a division of JPMorgan Chase Bank, N.A.

Mat A
AUTHORIZED SIGNATURE



REMITTER
JOY B EWERS

1315 140

Dole Berry Company, LLC
Docket No: CAA-09-2009-00
Citibank, N.A. - One Penn's Way - New Castle DE 19720

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