



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

FILED

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U.S. EPA REGION IX  
REGIONAL HEARING CLERK

DOCKET NO: CAA-09-2007-0025  
This ESA is issued to: Ballantine Produce Company, Inc.  
1750 S. Buttonwillow, Reedley, CA 93654

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

At: Ballantine Produce – Plant #2, 1750 S. Buttonwillow, Reedley, CA 93654

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 Ballantine Produce Company, Inc., (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 November 30, 2006, 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 June 21, 2004. Respondent failed to review and update its RMP and submit it to EPA on or before June 21, 2004 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 **\$300.00**.

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 **\$300.00** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency  
Region 9  
P.O. Box 371099M  
Pittsburgh, PA 15251

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 (SFD-9-3)  
75 Hawthorne Street  
San Francisco, CA 94105

Upon Respondent's submission of the signed original ESA, 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 - Ballantine Produce Company, Inc.


Signature: 

Date: 8/27/07

Name (print): RICHARD GRAHAM


Title (print): CONTROLLER

FOR COMPLAINANT:

  
Keith Takata  
Superfund Director  
U.S. EPA Region IX

Date: 18 September 2007

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

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

Date: 09/20/07

**CERTIFICATE OF SERVICE**

Docket No. CAA-09-2007- 0025

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:

Richard Graham  
Controller  
Ballantine Produce Company, Inc.  
P.O. Box 185  
Sanger, CA 93657

9-20-07

Date

Danielle E Carr

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