



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

NOV 10 2009

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John P. Wiltrout,
Director of Treatment
City of South Bend
227 West Jefferson Blvd.
Suite 1300 N
South Bend, Indiana 46601

RE: Expedited Settlement Agreement
ESA Docket No. RMP-09-ESA-009
Docket No.
CAA-05-2010-0002

Dear Mr. Wiltrout:

Enclosed please find a copy of the fully executed Risk Management Plan Expedited 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.

Please feel free to contact Mr. Greg Chomycia at (312)353-8217, or chomycia.greg@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,

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

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

Enclosure

BD#

2751003A003

**EXPEDITED SETTLEMENT
AGREEMENT (ESA)**

RECEIVED

NOV 10 2009

REGIONAL HEARING CLERK
USEPA
REGION 5

DOCKET NO: RMP-09-ESA-009

This ESA is issued to: City of South Bend, Indiana
At: North Pumping Station, 830 N. Michigan Street, South Bend, Indiana
for violating Section 112(r)(7) of the Clean Air Act.

CAA-05-2010-0002

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 September 9, 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 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 attached FORM for the total penalty amount of **\$3600.00**

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 **\$3600.00** 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:

Greg Chomycia
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 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 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: _____ APPROVED _____ Date: _____

Name (print): _____ Board of Public Works _____

Title (print): _____ SEP 25 2009 _____

COMPANY NAME _____
_____ Donald E. John
_____ Carl P. Whitwell

FOR COMPLAINANT:

for _____
Richard C. Karl, Director
Superfund Division

Date: 11/3/09

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

_____ Bharat Mathur
Acting Regional Administrator

Date: 11-4-09

CAA-05-2010-0002

RECEIVED
NOV 10 2009
REGIONAL HEARING CLERK
USEPA
REGION 5

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

Number: 2097645

Treasurer's Check

Date: 10/05/2009

\$3,600.00



Pay

Exactly Three Thousand Six Hundred Dollars And 00/100 Cents

PAY TO THE ORDER OF Treasurer, United States Of America

Void if over \$3,600.00

Remitter: City of South Bend
Docket NO: RMP-09-ESA-009

Curtis L. Becht Jr
Authorized Signature

⑈ 2097645 ⑈ ⑆071212128⑆ 900 205 ⑈ 6 ⑈

Treasurer's Check CUSTOMER RECEIPT

Number: 2097645
Date: 10/05/2009
Operator: 15458



To: Treasurer, United States Of America
Purchaser: City of South Bend
Docket NO: RMP-09-ESA-009

PAF

CAA-05-2010-0002
2751003A003

Remarks:

Fee: \$0.00
Amount: \$3,600.00

RECEIVED
NOV 10 2009
REGIONAL HEARING CLERK
USEPA
REGION 5