



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

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EPA REGION VIII
HEARING BLPRK

DOCKET NO.: CAA-08-2012-0008

IN THE MATTER OF:

UTAH OLYMPIC PARK
Park City, Utah

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

The Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 26th Day of July, 2012

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF:)
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Utah Olympic Park) **EXPEDITED SETTLEMENT AGREEMENT**
Park City, Utah)
) (COMBINED COMPLAINT AND
) (CONSENT AGREEMENT)
Respondent) **DOCKET NO. : CAA-08-2012-0008**
)

This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter ESA) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter.

This ESA is being entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated official, the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, and by the Utah Olympic Park (Respondent) pursuant to § 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). The EPA and the U.S. Department of Justice have determined, pursuant to § 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that the EPA may pursue this type of case through administrative enforcement action.

ALLEGED VIOLATIONS

On June 24, 2011, an authorized representative of the EPA conducted a compliance inspection of the Utah Olympic Park facility located at 3000 Bear Hollow Drive, Park City, Utah, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. part 68 under § 112(r) of the Act. The EPA found that the facility had violated regulations implementing § 112(r) of the Act by failing to comply with the specific requirements outlined in the attached *RMP Program Level 3 Process Checklist-Alleged Violations & Penalty Assessment* (Checklist and Penalty Assessment).

SETTLEMENT

In consideration of Respondent's facility service size, 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 for the total penalty amount of \$7,000. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.

This settlement is subject to the following terms and conditions:

1. The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in the Checklist and Penalty Assessment and consents to the assessment of the penalty as stated above.
2. Respondent waives its rights to a hearing afforded by § 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA, and consents to the EPA's approval of the ESA without further notice.
3. Each party to this action shall bear its own costs and attorney's fees, if any.
4. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent will correct the violations listed in the Checklist and Penalty Assessment no later than 60 days from the date the ESA is signed by the Respondent.
5. Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

After the Regional Judicial Officer issues the Final Order, the Respondent will receive a fully executed copy of this ESA and the Final Order. Within 20 days of receiving the signed Final Order, Respondent shall remit payment in the amount of \$7,000. **The payment shall reference the name and docket number of this case** and be made by remitting a cashier's or certified check, for this amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Federal Express, Airborne, or other commercial carrier:

U.S. Bank
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire Transfers:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727
Environmental Protection Agency "

ACH Transactions (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887 6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account Number: 310006
CTX Format.

There is now an On Line Payment Option, available through the US Department of Treasury. This payment option can be accessed from the information below:

www.PAY.GOV
(Enter sfo 1.1 in the search field
Open form and complete required fields)

A copy of the check, or notification that the payment has been made by one of the other methods listed above, shall be sent simultaneously to:

Tina Artemis, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8RC]
Denver, Colorado 80202-1129

and

David Cobb
EPCRA/RMP Enforcement Coordinator
US EPA, Region 8
1595 Wynkoop Street [8ENF-AT]
Denver, Colorado 80202-1129

The penalty specified in this ESA shall not be deductible for purposes of State or Federal taxes.

Once Respondent receives a copy of the completely signed ESA, a copy of the Final Order issued by the regional judicial Officer in this matter, and Respondent pays in full the penalty assessment described above, the EPA agrees not to take any administrative action against the Respondent for any claims related solely to the alleged violations found in this ESA, including but not limited to, any claims pursuant to 40 C.F.R. part 68 under §112(r) of the Clean Air Act.

The EPA's covenants not to sue do not pertain to any matters other than those expressly specified herein. The EPA reserves and this Agreement is without prejudice to, all rights against the Respondent with respect to all other matters, including but not limited to, the following:

- a. claims based on a failure by the Respondent to meet a requirement of this Agreement including any claims for costs which are caused by the Respondent's failure to comply with this Agreement;
- b. claims based on criminal liability;
- c. claims based on any violations of the Clean Air Act or federal or state law which occur after the effective date of this Agreement

If Respondent fails to return the signed original ESA by the stated deadline, fails to timely submit the above-referenced payment, or fails to correct the violations no later than 60 days from the date the ESA is signed, a motion will be filed to withdraw the consent agreement and final order. The EPA may then file an administrative or civil enforcement action against Respondent for the violations addressed herein.

This ESA is binding on the parties signing below.

Utah Olympic Park Expedited Settlement Agreement

FOR RESPONDENT:

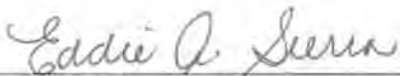


Date: 7-3-2012

Name (print): Colin Hilton

Title (print): Pres/CEO

FOR COMPLAINANT:



Date: 07/24/12

for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

**RMP PROGRAM LEVEL 3 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Facility Name: Utah Olympic Park (UOP) – Park City, Utah INSPECTION DATE: 6/24/11

SUBPART A: MANAGEMENT [68.15]

PENALTY

Has the owner or operator implemented an RMP management system in accordance with 40 CFR 68.15? **No**

- **UOP’s RMP is not being managed in accordance with 40 CFR 68.15(a).**
- **UOP has not assigned a qualified person or position with overall responsibility for the development, implementation, and integration of the risk management program elements at 40 CFR 68.15(b).**
- **UOP has not documented persons responsible for implementing individual requirements of the risk management program and has not defined the lines of authority through an organization chart or similar document as required under 40 CFR 68.15(c). (UOP has such a chart on site with spaces to be filled out but UOP has not filled out the spaces.)**
- **It appears that UOP has not maintained its RMP since the original RMP developed by URS in 2001.**

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SUBPART C: PREVENTION PROGRAM [68.85 – 68.87]

Prevention Program – Safety Information [68.65]

Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices? [40 CFR 68.65(d)(2)] **No.**

- **UOP has not provided documentation supporting this requirement.**
- **UOP has not considered the IIAR (International Institute of Ammonia Refrigeration) standards.**
- **UOP has not considered the 2007 National Boiler Inspection Code (NBIC).**
- **Ammonia monitors are not located so as to be in accordance with IIAR Bulletin 111 Ammonia Machine Room Ventilation § 3.4.2. Monitors are mounted high on the walls of the ammonia containment pit. According to IIAR, ammonia vapor is colorless and lighter than air. During a larger release to the atmosphere, anhydrous ammonia can combine with water vapor in the air and form a visible “white cloud”. The visible white cloud will tend to be heavier than air and will “ride close to the ground” in a quiescent environment. For this reason, refrigerant concentration should**

1500

<p>be monitored at two or more points within the machine room. At least one detector should be located low in the machinery room to detect any vapor that would tend to ride close to the ground. The other detector(s) should be positioned high in the machinery room in a location where the continuous circulation of ventilation air through the machinery room will be drawn over the sensor.</p> <ul style="list-style-type: none"> • UOP has not selected and applied a suitable fitness-for-service or condition-assessment methodology for its ammonia pressure vessels and piping per Section 4.4.3a of the 2008 addendum to the 2007 NBIC. <p>Note: The 2007 NBIC has been adopted and incorporated by reference per Utah's Rule R616-7. In addition, the 2008, 2009, and 2010 addenda have been adopted and incorporated by reference.</p>	
<p>Prevention Program – Process Hazard Analysis [68.67]</p>	
<p>Has the PHA been updated and revalidated by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process? [40 CFR 68.67(f)] No.</p> <ul style="list-style-type: none"> • An initial PHA was performed in 2001. • A 2006 PHA was not performed. • A 2011 PHA had not been initiated. 	<p>2500</p>
<p>Prevention Program – Operating Procedures [68.69]</p>	
<p>Has the owner or operator certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary? [40 CFR 68.69(c)] No.</p> <ul style="list-style-type: none"> • UOP has not certified annually that its operating procedures are current and accurate. UOP's OP's have not been updated since 2001. 	<p>1200</p>
<p>Prevention Program – Compliance Audits [68.79]</p>	
<p>Has the owner or operator conducted compliance audits in accordance with 40 CFR 68.79(a)? No.</p> <ul style="list-style-type: none"> • Compliance audits have not been performed • A 2004 CA was not performed • A 2007 CA was not performed • A 2010 CA was not performed 	<p>1200</p>
<p>BASE PENALTY</p>	<p>\$7,000</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

EXPEDITED SETTLEMENT PENALTY MATRIX
Utah Olympic Park, Park City, Utah

MULTIPLIER FACTORS FOR CALCULATING PROPOSED PENALTIES FOR
VIOLATIONS FOUND DURING RMP INSPECTIONS

Private Industries

# of Employees	1 – 5*	>5 – 10*	> 10*
0 – 9	0.4	0.6	0.8
10 – 100	0.6	0.8	1.0
> 100	1.0	1.0	1.0

* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.

PROPOSED PENALTY WORKSHEET

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program Inspections Findings, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility.

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

Example:

XYZ Facility is a private company which has 24 employees and 7 times the threshold amount for the particular chemical in question. After adding the penalty numbers in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet an unadjusted penalty of \$4700 is derived.

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and the row for >5-10 times the threshold quantity amount gives a multiplier factor of 0.8.

2nd Use the Adjusted Penalty formula

$$\begin{aligned}\text{Adjusted Penalty} &= \$4700 (\text{Unadjusted Penalty}) \times 0.8 (\text{Size-Threshold Multiplier}) \\ \text{Adjusted Penalty} &= \$3760\end{aligned}$$

3rd An Adjusted Penalty of \$3760 would be assessed to XYZ Facility for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

Calculation for Adjusted Penalty

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

$$\$7,000 = \$7,000 \times 1.0^*$$

* # of employees is 30. The covered chemical, anhydrous ammonia, exceeds the listed threshold value by >10 times

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER** in the matter of **UTAH OLYMPIC PARK.; DOCKET NO.: CAA-08-2012-0008**, was filed with the Regional Hearing Clerk on July 26, 2012.


Further, the undersigned certifies that a true and correct copy of the document was delivered to David Rochlin, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on July 26, 2012, to:

Colin Hilton, President and CEO
Utah Olympic Park
PO Box 980337
3419 Olympic Parkway
Park City, UT 84098-0337

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

July 26, 2012


Tina Artemis
Paralegal/Regional Hearing Clerk