



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270-2102

FILED  
2019 JUL 31 AM 10:12  
REGIONAL HEARING CLERK  
EPA REGION VI

**EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO: CAA 06-2019-3503**

**This complaint is issued to: San Juan Basin Gas Plant (Harvest Midstream)**

**At: 1001 Arizona Street, New Mexico, for violating Section 112(r)(7) of the Clean Air Act.**

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 6, by its duly delegated official, the Director, Enforcement and Compliance Assurance Division, and by San Juan Basin Gas Plant-Harvest Midstream (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). EPA and the United States Department of Justice have jointly determined that EPA may pursue this type of case as an administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

From March 26-28, 2019, 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, 42 U.S.C. § 7412(r). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act, 42 U.S.C. § 7412(r), by failing to comply with the regulations as noted below:

- 1) 40 C.F.R. § 68.69(c) Operating Procedures – “The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.” Respondent failed to certify its operating procedures for year 2017.
- 2) 40 C.F.R. § 68.73(d)(1) Mechanical Integrity – “(d) Inspection and testing. (1) Inspections and tests shall be performed on process equipment”. Respondent failed to conduct inspection and testing on two atmospheric tanks (TK-1402 and TK-1403).

**SETTLEMENT**

In consideration of factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including 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 above for the total penalty amount of **\$ 4,200.00**. 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 herein, 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 above and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$ **4,200.00** 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 DOCKET NUMBER OF THIS ESA must be included on the certified check. (The DOCKET NUMBER is located at the top left corner of this ESA.). **This original Settlement Agreement and a copy of the certified check must be sent by certified mail to:**

Elizabeth Rogers  
RMP Enforcement Officer  
Enforcement and Compliance Assurance Division (ECDAC)  
U. S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102

Respondent's full payment of the penalty as provided in this Settlement Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged above. EPA does not waive any enforcement action by EPA for any other past, present, or future violations under the Act or any other statute.

If the Settlement Agreement with an attached copy of the certified check is not returned to the EPA Region 6 office at the above address in correct form by the Respondent within 30 days of the date of the receipt of this Settlement Agreement, the Complaint and ESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violations identified in this Settlement Agreement.

Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this complaint pursuant to 40 CFR § 22.14. Upon signing and returning of this Settlement Agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A).

This Settlement Agreement is binding on the EPA and the Respondent. By signing below, the Respondent waives any objections to EPA's jurisdiction with respect to the Settlement Agreement and consents to EPA's approval of this Settlement Agreement without further notice. This Settlement Agreement is effective upon filing with the Regional Hearing Clerk.

19 JUL 22 AM 11:11

**SIGNATURE BY RESPONDENT:**

Signature: Kevin Reese  
Name (print): Kevin Reese  
Title (print): Plant Manager  
Cost of Corrective Action \$8,000

Date: 7-9-2019

Respondent's Brief Description of Complying Action: 1. Operating Procedures were reviewed and certified in 2018 and current when the inspection was completed in March. 2. Atmospheric tanks TK-1402 and TK-1403 have been internally inspected and the reports are on file.

If you need additional space or would like to provide additional supporting documentation, please attach to this document.

**SIGNATURE BY EPA:**

Cc  
Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

Date: July 24, 2019

It is so ORDERED. This Order shall become effective upon filing of the fully executed Complaint and ESA with the Regional Hearing Clerk.

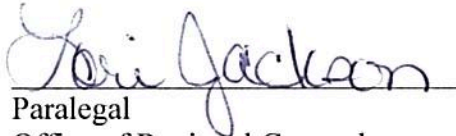
Thomas Rucki  
Thomas Rucki  
Regional Judicial Officer

Date: 7/29/19

## CERTIFICATE OF SERVICE

I hereby certify that on the 31<sup>st</sup> day of July 2019, the original of the foregoing Final Order of Clean Air Act, Section 112(r) Expedited Settlement Agreement was hand delivered to the Regional Hearing Clerk, U. S. EPA, Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270, and that a true and correct copy was placed in the United States mail, first class postage prepaid, addressed to the following:

Mr. Kevin Reese  
Plant Manager  
San Juan Basin Gas Plant (Harvest Midstream)  
1001 Arizona Street  
Bloomfield, NM 87413

  
Paralegal  
Office of Regional Counsel  
US EPA - Region 6