



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

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HEARINGS CLERK  
EPA--REGION 10

**EXPEDITED SETTLEMENT AGREEMENT**

**DOCKET NO:** CAA-10-2009-0059  
**This ESA is issued to:** Duckwall-Pooley Fruit Company  
3430 Davis Road, Odell, Oregon 97031

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), 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 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**

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, which is hereby incorporated by reference.

**SETTLEMENT**

In consideration of 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 in the enclosed Summary for the total penalty amount of \$720.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Summary, and consents to the assessment of the penalty as stated above.

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Environmental  
Cleanup Office

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 Respondent has corrected the violations listed in the enclosed Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$720 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 the ESA must be included on the check. (The docket number is located at the top of this ESA.)

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

Attn: Javier Morales, 112(r) Enforcement Coordinator  
Office of Environmental Cleanup  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, Mail Stop ECL-116  
Seattle, Washington 98101

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 Summary. EPA does not waive its right to 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 at the above address by 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 Summary.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Signature: Kathleen A. Nishimoto  
 Name (print): KATHLEEN A. NISHIMOTO  
 Title (print): DIRECTOR OF HUMAN RESOURCES  
 Cost to correct violation(s): \$ 27,167.00

Date: 9/15/09

FOR COMPLAIANT:

Wally Moon  
 Wally Moon  
 Preparedness and Prevention Team Leader  
 Emergency Response Unit  
 Office of Environmental Cleanup

Date: 9/22/09

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

Thomas M. Jahnke  
 Thomas M. Jahnke  
 Regional Judicial Officer  
 EPA Region 10

Date: 9/23/09

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: Duckwall-Pooley Fruit Company, DOCKET NO.: CAA-10-2009-0059** was filed with the Regional Hearing Clerk on September 23, 2009.

On September 24, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:

Bob Hartman, Esquire  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on, September 24, 2009 to:

Duckwall-Pooley Fruit Company  
Wade Root, Asst. Operations Manager  
P.O. Box 150  
Odell, Oregon 97044

DATED this 24<sup>th</sup> day of September 2009.

  
\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10