



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

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA(112r)-09-2020-0056

This ESA is issued to: Calexico Water Treatment Plant
545 Pierce Avenue
Calexico, CA 92231



For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Calexico Water Treatment Plant, 545 Pierce Avenue, Calexico, CA 92231

This Expedited Settlement Agreement (“ESA”) is being entered into by the United States Environmental Protection Agency (“EPA”), Region IX, by its duly delegated official, Amy C. Miller-Bowen, Director, Enforcement and Compliance Assurance Division, and City of Calexico (“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 has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

Following its February 27, 2020 inspection, EPA alleges Respondent’s failure to:

1. Comply with the requirements of 40 CFR § 68.15(a) [Management Systems] in that the facility did not have adequate oversight for the RMP program at the time of inspection. Although a new management team is getting up to speed on the implementation of the RMP requirements, multiple areas still need improvement: Since the previous manager who implemented the RMP program went on extended leave, there have been late or missing entries to the facility’s Process Safety Information (PSI), Standard Operating Procedures (SOP), and Compliance Audits.
2. Comply with the requirements of 40 CFR § 68.65(d)(1)(ii) [Process Safety Information] in that the Facility’s 2016 and 2019 Compliance Audits show piping and instrument diagrams (P&IDs) do not accurately depict the process information. The Facility’s P&IDs did not show I-701 correctly connected to I-702.
3. Comply with the requirements of 40 CFR § 68.65(d)(2) [Process Safety Information] in that the seal at the bottom of a door leading to the Chlorine Room was compromised, which does not align with the guidelines put forth by Pamphlet 155, Water and Wastewater Operators Chlorine Handbook, Edition 2, 2008, Section 7.7.

4. Comply with the requirements of 40 CFR § 68.65(d)(2) [Process Safety Information] in that no signage was provided on a south-facing Chlorine Room entrance to indicate only authorized personnel were permitted to enter, which does not follow the guidelines put forth by Pamphlet 155, Water and Wastewater Operators Chlorine Handbook, Edition 2, 2008, Section 4.4.
5. Comply with the requirements of 40 CFR § 68.69(c) [Operating Procedures] in that there were no records of annual certifications for operating procedures for the years 2017, 2018, or 2019.
6. Comply with the requirements of 40 CFR § 68.73(d)(4) [Mechanical Integrity] in that the methodology the Facility used to identify and document that they had completed inspections and analyzed their system was unclear. It is not clear how the Facility documents changes from week to week, as readings are not recorded.
7. Comply with the requirements of 40 CFR § 68.79(d) [Compliance Audit] in that the Facility did not complete action items in a timely manner. Resulting action items from the Facility's 2016 audit were carried over three years later into the draft of the 2019 compliance audit.
8. Comply with the requirements of 40 CFR § 68.83(a) [Employee Participation] in that the Facility did not have an adequate plan in place for employee participation. According to the Facility, they have a plan in place for employee participation involving PHA participation. Employee participation every 5 years when a PHA is required is not an adequate plan for employee participation.
9. Comply with the requirements of 40 CFR § 68.95(c) [Emergency Response Program] in that EPA did not find documentation outlining any emergency notification drills the Facility completed with the local fire department.
10. Comply with the requirements of 40 CFR § 68.190(b)(1) [Risk Management Plan] in that the Facility's five-year RMP update was submitted late. The update was due May 2019 but was turned in nine months later in February 2020.

SETTLEMENT

In consideration of the City of Calexico's (Respondent) population size, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$6,420**.

This settlement is subject to the following terms and conditions:

- 1) 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 an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields). EPA encourages electronic payments, but **alternatively you may send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of \$6,420 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 payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment. Please send a copy of your payment confirmation and the signed ESA to Karen Henry at: Henry.Karen@epa.gov. Alternatively, you may send the original signed ESA and a copy of the payment to:

Karen Henry (ENF-2-2)
U.S. Environmental Protection
Agency Region IX
75 Hawthorne Street
San Francisco, CA 94105

- 2) Pursuant to CAA § 114(a)(1)(B) [42 U.S.C. § 7414(a)(1)(B)] **please provide documentation to USEPA Region IX describing how each area of identified non-compliance has been addressed**. Such documentation is due to EPA within 45 calendar days of your receipt of this letter. If you have corrected non-compliance and intend to resolve EPA's penalty action through the enclosed ESA, your signature affirms that the listed violations have been corrected. When you return the signed ESA to EPA, please provide documentation describing how each area of identified non-compliance was addressed along with an estimate of the cost you incurred fixing those deficits.

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 ESA with an attached copy of the payment is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of the proposed ESA and EPA has not granted an extension of its offer to settle, 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: City of Calexico

Signature:  _____ Date: 8/11/2020

Name (print): Lilliana Falomir

Title (print): Public Works Manager - Administrative

FOR COMPLAINANT: Environmental Protection Agency

**AMY MILLER-
BOWEN**

Digitally signed by AMY MILLER-
BOWEN
Date: 2020.09.11 17:16:49 -07'00'

Date: _____

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division
U.S. EPA Region IX

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

Steven L. Jawgiel

Digitally signed by Steven L.
Jawgiel
Date: 2020.09.25 10:43:08 -07'00'

Date: _____

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

CERTIFICATE OF SERVICE

This is to certify that the foregoing Expedited Settlement Agreement in the matter of Calexico Water Treatment Plant with the Docket Number **CAA(112r)-09-2020-0056** has been filed with the Regional Hearing Clerk of EPA Region 9, and that a copy was sent by electronic mail as follows:

Respondent:

Lilliana Falomir,
Public Works Manager
Calexico Water Treatment Plant
Email: FalomirL@calexico.ca.gov

Complainant:

Andrew Helmlinger, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
Email: Helmlinger.Andrew@epa.gov

Date

Steven Armsey
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX