

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

**** FILED ****

DOCKET NO: CAA (112r)-09-2018-0021

21FEB2019 - 04:25PM

This ESA is issued to: 6th Street Cooling, LLC
521 Olive Avenue
Holtville, CA 92250

U.S.EPA - Region 09

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: 6th Street Cooling; 521 Olive Avenue, Holtville, CA 92250

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region 9, by its duly delegated official, Enrique Manzanilla, Superfund Director, and 6th Street Cooling, LLC ("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 June 11, 2018 inspection, EPA alleges Respondent's failure to:

- 1) Comply with the requirements of 40 C.F.R. § 68.65(d)(1)(ii) in that there was inadequate and inconsistent labeling of the process piping and equipment generally located around the High Pressure Receiver area and within the Cold Storage Rooms. The labeling was not consistent with International Institute of Ammonia Refrigeration (IIAR) Bulletin 114 and American Society of Mechanical Engineers (ASME) B31.3, which specify recognized and generally accepted good engineering practices (RAGAGEP) for identification of ammonia piping and equipment conditions. IIAR Bulletin No. 109 Section 4.7.6, states "All ammonia piping should have appropriate pipe markers attached to indicate the use of the pipe and arrows to indicate the direction of flow, such as in IIAR Bulletin No. 114..."
- 2) Comply with the requirements of 40 C.F.R. § 68.73(d)(4) in that the review of the documents provided indicates that some inspections and tests on refrigeration equipment were not implemented consistently and performed for all equipment. The IIAR 109 inspections performed on December 30, 2017, to evaluate the Facility's safety criteria as related to the ammonia refrigeration system, did not include: scheduled preventative maintenance and action recommendations documenting the deficiencies; proposed action resolution; action taken; or projected completion date (following the inspections). Ammonia sensors are calibrated twice per year, but no documentation for the calibration of ammonia sensors was provided.
- 3) Comply with the requirements of 40 C.F.R. § 68.73(e) in that the during the site walk-through, corrosion and rust on tanks and piping were observed throughout the Facility. Two of the refrigeration trailers' condensers showed extensive algae growth and corrosion. Significant rust and corrosion were observed on the recirculator tanks and piping. ANSI/IIAR 2-2014, Section 13.4.2 states that refrigerant piping should be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact and ANSI/ASHRAE 15-2016, Section 8.10.4 states refrigerant piping shall be properly isolated and supported to prevent damaging vibration, stress, or corrosion. NFPA 1-2012, Section 53.3.1.1 states that refrigeration systems shall be operated and maintained in a safe and operable condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris, or leaks, and in accordance with ASHRAE 15 and the mechanical code. IIAR Bulletin 109, Sections 4.7.4 states that uninsulated refrigerant piping should be examined for signs of corrosion, and if

corrosion exists, the pipe should be cleaned down to bare metal and painted with a rust preventive paint and badly corroded pipe should be replaced.

- 4) Comply with the requirements of 40 C.F.R. § 68.79(d) in that the Company did not adequately document the resolution of findings, which were marked as incomplete, and no answers in the January 19, 2015 Compliance Audit indicated that the Facility promptly determined and documented an appropriate response to each of the audit findings or corrections.

SETTLEMENT

In consideration of Respondent's size of business, 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 \$1,620.

This settlement is subject to the following terms and conditions:

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) **or alternatively has sent a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of \$1,620 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 check or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the EPA Cincinnati Finance Center. This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Angie Proboszcz (SFD-9-3)
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

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 original ESA with an attached copy of the check is not returned to the EPA Region 9 office at the above address in correct form by the Respondent within 30 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 – 6th Street Cooling, LLC.

Signature:  _____

Date: 12/28/2018

Name (print): Jesse Estrada Tomas Armenta

Title (print): General Manager

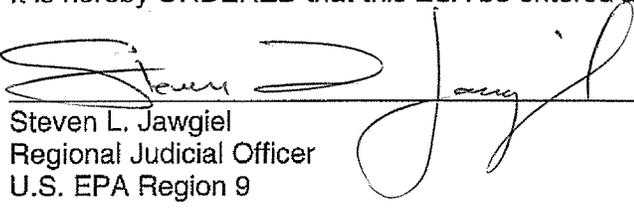
FOR COMPLAINANT:



Enrique Manzanilla, Director
Superfund Division
U.S. EPA Region 9

Date: 2/6/19

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


Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA Region 9

Date: 02/20/19

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Consent Agreement and Final Order in the matter of 6th Street Cooling [Docket Number CAA(112R)-09-2019-0021], has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

The Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:

(With Return Receipt)

Respondent -

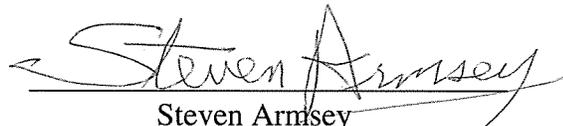
Mr. Tomas Armenta
General Manager
6th Street Cooling
521 Olive Avenue
Holtville, CA 92250

HAND DELIVERED:

Complainant -
(By Counsel)

Andrew Helmlinger
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated at San Francisco, CA, Feb. 21, 2019;


Steven Armsey
Regional Hearing Clerk
EPA, Region 9