



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 28 2014

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeff Laskey
Chief Refrigeration Engineer
Twin City Foods Inc.
1315 Sherman Street
Lake Odessa, Michigan 48849

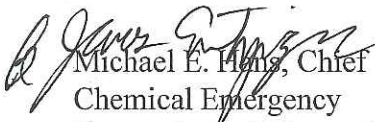
RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-14-ESA-007
Docket No. **CAA-05-2015-0005**

Dear Mr. Laskey:

Enclosed please find a copy of the fully executed Expedited RMP Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Hens, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

DOCKET NO: RMP-14-ESA-007

CAA-05-2015-0005

This ESA is issued to: Twin City Foods Inc.

at: 1315 Sherman Street, Lake Odessa, Michigan 48849

for violations of Section 112(r)(7) of the Clean Air Act.



EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and Twin City Foods, Inc. (“Respondent”), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly “the Parties”) have agreed that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement (“ESA”) and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA’s authority under Sections 113(a)(3) and (d) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA (“Complainant”) has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On February 5, 2014, an authorized EPA representative conducted a compliance inspection of Twin City Foods Inc. located at 1315 Sherman Street, Lake Odessa, Michigan 48849 (“Facility”) to determine its compliance with the Risk Management Plan (“RMP”) regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the February 5, 2014 inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.15 Respondent failed to document the names or positions of individuals who have responsibility for implementing individual requirements of the Risk Management Program and failed to document the lines of authority defined through an organization chart or similar document.
2. 40 C.F.R. § 68.67(e) Respondent failed to establish a system to promptly address the Process Hazard Analysis team’s findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as

possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

3. 40 C.F.R. § 68.67(f) Respondent failed to update and revalidate Process Hazard Analysis to assure it is consistent with the current process.
4. 40 C.F.R. § 68.73(d)(3) Respondent failed to inspect and test process equipment at a frequency that is consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.
5. 40 C.F.R. § 68.73(e) Respondent failed to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation.
6. 40 C.F.R. § 68.79(c) Respondent failed to develop a report of findings of Compliance Audits performed.
7. 40 C.F.R. § 68.79(e) Respondent failed to retain the two most recent compliance audit reports.
8. 40 C.F.R. § 68.87(b)(5) Respondent failed to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations.

SETTLEMENT

In consideration of Respondent's full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of \$7,600.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$7,600 in payment of the full penalty amount to the following

address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

*Send check
to:
w/ docket #
RMP-14-ESA-007*

CAA-05-2015-0005

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-14-ESA-007.)

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

~~Monika Chrzaszcz~~
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (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 in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

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

FOR RESPONDENT:

Signature: *Ken Stensen*
Name (print): Ken Stensen
Title (print): Division Manager
Respondent

Date: 9/29/14

FOR COMPLAINANT:

for *Sam Baniad*
Richard C. Karl, Director
Superfund Division

Date: 10-17-14

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Susan Hedman
Regional Administrator

Date: 10/24/2014