

FILED

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

2013 SEP 27 PM 4:33

DOCKET NO: CAA (112r)-09-2013-0009

US EPA - REGION IX  
HEARING CLERK

This ESA is issued to: City of Peoria Greenway Water Treatment Plant  
7300 W. Greenway Rd.  
Peoria, AZ 85381

For: Violation of Section 112(r)(7) of the Clean Air Act.  
At: City of Peoria Greenway Water Treatment Plant, 7300 W. Greenway Rd., Peoria, AZ 85381

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Enrique Manzanilla, Superfund Director, and City of Peoria Greenway Water Treatment Plant ("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, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

### ALLEGED VIOLATIONS

Failure to:

- 1) *Establish a system to properly address the Process Hazard Analysis (PHA) team's findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be completed; and communicated the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.67(e).*

The facility had not developed or implemented a tracking system to ensure that findings and recommendations from the PHA revalidation were promptly and appropriately addressed.

- 2) *Certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.69(c).*

The facility had not annually certified that their operating procedures are current and accurate. The last certification was conducted in April 2010.

- 3) *Provided refresher training at least every three years, or more often than necessary, to each employee involved in the operating process to assure that the employee understands and adheres to the current operating procedures of the process as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.71(b).*

The facility could not produce documentation of refresher training of employees in the last three years.

- 4) *Promptly determined and documented an appropriate response to each of the compliance audit findings and documented that deficiencies had been corrected required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.79(d).*

For the 2010 compliance audit, no system had been developed for tracking the implementation status of several open recommendations.

## **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 \$2,700.

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 \$2,700 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:

Angle Proboaszcz (SFD-9-3)  
U.S. Environmental Protection Agency  
Region IX  
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 IX office at the above address in correct form by the Respondent within 21 days of the date of Respondent's receipt of the proposed ESA, 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 Peoria Greenway Water Treatment Plant

Signature: 

Date: 9/11/2013

Name (print): Linda Bezy-Botma

Title (print): Public Works - Utilities Operations Manager, City of Peoria


FOR COMPLAINANT:



Date: 9/26/13

Enrique Manzanilla  
Superfund Director  
U.S. EPA Region IX

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

  
Steven L. Jawgier  
Chief Judicial Officer  
U.S. EPA Region IX

Date: 9/27/13

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement with City of Peoria Greenway WTP (Docket #: CAA(112r)-09-2013-0007) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

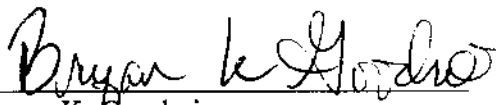
A copy was mailed via CERTIFIED MAIL to:

Linda Bezy-Botma  
Public Works – Utilities Operations Manager  
9875 N. 85<sup>th</sup> Avenue  
Peoria, AZ 85345

**CERTIFIED MAIL NUMBER:** 7013 1090 0000 1618 5206

A copy was hand-delivered to the following U.S. EPA case attorney:

Thanne Cox, Esq.  
Office of Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

  
Bryan K. Goodwin  
Regional Hearing Clerk  
U.S. EPA, Region IX

9/27/13  
Date



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

CERTIFIED MAIL NO: 7013 1090 0000 1618 5206  
Return Receipt Requested

SEP 27 2013

Mr. Linda Bezy-Botma  
Public Works – Utilities Operations Manager  
9875 N. 85<sup>th</sup> Avenue  
Peoria, AZ 85345

Re: City of Peoria Greenway Water Treatment Plant, 7300 W. Greenway Rd., Peoria, AZ 85381  
EPA Facility ID # 1000 0017 8103

Dear Ms. Bezy-Botma,

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act (CAA) Section 112(r)(7) at the City of Peoria Greenway Water Treatment Plant, 7300 W. Greenway Rd., Peoria, AZ 85381. The violations are for failure to:

1) Establish a system to properly address the Process Hazard Analysis (PHA) teams findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be completed; and communicated the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations as required by Section 112(r) (7) of the Act, and 40 C.F.R. §68.67(e).

The facility had not developed or implemented a tracking system to ensure that findings and recommendations from the PHA revalidation were promptly and appropriately addressed.

2) Certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.69(c).

The facility had not annually certified that their operating procedures are current and accurate. The last certification was conducted in April 2010.

3) Provided refresher training at least every three years, or more often than necessary to each employee involved in the operating process to assure that the employee understands and adheres to the current operating procedures of the process as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.71(b).

The facility could not produce documentation of refresher training of employees in the last three years.

4) Promptly determined and documented an appropriate response to each of the compliance audit findings and documented that deficiencies had been corrected required by

Section 112(r)(7) of the Act, and 40 C.F.R. 68.79(d).

For the 2010 compliance audit, no system had been developed for tracking the implementation status of several open recommendations.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the CAA Section 112(r)(7) requirements, please feel free to contact Angie Proboszcz of my staff at (415) 972-3077.

Sincerely,

A handwritten signature in black ink, appearing to read 'Enrique Manzanilla', with a long horizontal flourish extending to the right.

Enrique Manzanilla  
Director, Superfund Division

Enclosures