

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

FILED

2012 AUG 16 AM 9:41

DOCKET NO: CAA (112r)-09-2011-0016

This ESA is issued to: Yuma Desalting Plant
7301 Calle Agua Salada
Yuma, AZ 85364

U.S. EPA, REGION IX
REGIONAL HEARING CLERK

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: 7301 Calle Agua Salada, Yuma, AZ 85364

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Jane Diamond, Superfund Director, and Yuma Desalting 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

Respondent Failed to:

- 1) *Certify that the stationary source has evaluated compliance with the provisions of the prevention program at its facility at least every three years to verify that the developed procedures and practices are adequate and being followed, as required by Section 112(r)(7) of the Clean Air Act (the Act) and 40 C.F.R. § 68.79(a).*

The facility submitted their five year RMP re-submission on December 01, 2006 (after submitting a RMP de-registration on February 8, 2005). Thus, the facility should have done a compliance audit in December 2009. However, the facility did not conduct a RMP compliance audit until February 2011.

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 **\$1,200.00**.

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 have 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 send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$1,200.00** 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 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
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street (SFD-9-3)
San Francisco, CA 94105

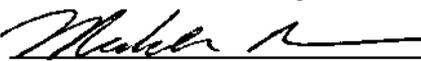
Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, 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 30 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 – Yuma Desalting Plant

Signature: 

Date: 7/26/12

Name (print): Mike Norris

Title (print): Desalting Manager

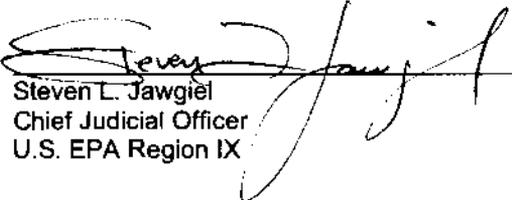
FOR COMPLAINANT:



Jane Diamond
Superfund Director
U.S. EPA Region IX

Date: 9 August 2012

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



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

Date: 08/15/12

Penalty Calculation

Corporate Name: U.S. Bureau of Reclamation
Corporate Address:
Facility Name: Yuma Desalting Plant
Facility Address: 7301 Calle Agua Salada, Yuma, AZ 85364

SUMMARY OF VIOLATIONS: (See attached Base Penalty \$Cost Matrix)

40 C.F.R. Part 68.79(a) = \$1,200

Sub-total: \$1,200

Adjusted Total Penalty: \$1,200 (See penalty adjustment calculation below)

PENALTY ADJUSTMENT CALCULATION:

Facility RMP ID #: 1000 0010 0605
Program Level: 3
Number of Employees: 232

Chemical / Quantity Reported: Anhydrous Ammonia / 36,000 lbs
Threshold Quantity (TQ): 10,000 lbs
Times TQ: 3

Chemical/Quantity Reported: Chlorine/ 133,200 lbs.
Threshold Quantity (TQ): 2,500 lbs.
Times TQ: 53

Times TQ for chemical in process

# of Employees	1-5	5-10	>10	Multiplier
0 - 9	0.4	0.6	0.8	
10 - 100	0.6	0.8	1.0	
>100	1.0	1.0	1.0	

Adjusted Penalty Calculation: Base/Sub-total x Multiplier

Base Penalty/sub-total = \$ 1,200

Base x Multiplier = \$1,200* (1.0) =

\$1,200

Final Adjusted Penalty

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of BUREAU OF RECLAMATION, YUMA AREA OFFICE. (Docket #: CAA(112r)-09-2012-0016) 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:

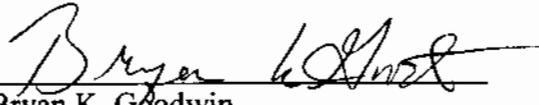
A copy was mailed via CERTIFIED MAIL to:

Mr. Mike Morris, Chief
Desalting and Program Management Office
Bureau of Reclamation, Yuma Area Office
7301 Calle Agua Salada
Yuma, AZ 85364

CERTIFIED MAIL NUMBER: 7000 0520 0025 3715 3974

And additional 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

8/17/12
Date



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

CERTIFIED MAIL NO: 7000 0520 0025 3715 3974
Return Receipt Requested

AUG 17 2012

Mr. Mike Morris, Chief
Desalting and Program Management Office
Bureau of Reclamation, Yuma Area Office
7301 Calle Agua Salada
Yuma, AZ 85364

Re: Yuma Desalting Plant, 7301 Calle Agua Slada, Yuma, AZ 85364
EPA Facility ID # 1000 0010 5655

Dear Mr. Morris,

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 Yuma Desalting Plant, 7301 Calle Agua Salada, Yuma, AZ 85364. The violation is for failure to:

1) Certify that the stationary source has evaluated compliance with the provisions of the prevention program at its facility at least every three years to verify that the developed procedures and practices are adequate and being followed, as required by Section 112(r)(7) of the Clean Air Act (the Act) and 40 C.F.R. § 68.79(a).

The facility submitted their five year RMP re-submission on December 01, 2006 (after submitting a RMP de-registration on February 8, 2005). Thus, the facility should have done a compliance audit in December 2009. However, the facility did not conduct a RMP compliance audit until February 2011.

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 "Jane Diamond".

Jane Diamond
Director, Superfund Division

Enclosures