



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

FILED

2008 JUN 10 PM 2:47

U.S. EPA REGION IX  
REGIONAL HEARING CLERK

DOCKET NO: CAA-09-2008-0026

This ESA is issued to: J.R. Simplot Company

For: Violation of Section 112(r)(7) of the Clean Air Act.

At: Simplot Grower Solutions, Orland, 1536 South Railroad Avenue, Orland, CA 95963

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region IX, by its duly delegated official, Keith Takata, Superfund Director, and by J.R. Simplot Company, (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). On November 13, 2007, EPA 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

- I. Respondent was required to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with the covered process, including written procedures for transfer of ammonia between the tanker truck and the storage tank at the stationary source referenced above. 40 C.F.R. § 68.52(a). Respondent failed to prepare written operating procedures as required by 40 C.F.R. § 68.52(a), in violation of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7).
- II. Respondent was required to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment, including the ammonia tank storage area at the stationary source referenced above. 40 C.F.R. §§ 68.56(a). Respondent failed to prepare and implement an on-going a maintenance program for the ammonia tank storage area as required by 40 C.F.R §§ 68.56(a), in violation of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7).

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, economic benefit, and other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$202.50**.

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 a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$202.50** 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 should reference Respondent's name and a copy of this ESA must be included with the check. This original ESA and a copy of the check must be sent by certified mail to:

Mary Wesling (SFD-9-3)  
U.S. Environmental Protection Agency  
Region IX (SFD-9-3)  
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 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 – J.R. Simplot Company


Signature: 

Date: 5/30/08

Name (print): Terry T. Uhling


Title (print): Senior Vice President, Secretary & General Counsel

FOR COMPLAINANT:

  
for Keith Takata  
Superfund Director  
U.S. EPA Region IX

Date: 9 June 2008

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

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

Date: 06/10/08

06383 11-24  
Office AU # 1210(8)

# OFFICIAL CHECK

SERIAL #: 0638313044  
ACCOUNT#: 4861-505824

Purchaser: JR SIMPLOT CO  
Purchaser Account: 5130002990  
Operator I.D.: idho1260

May 22, 2008

PAY TO THE ORDER OF

\*\*\*UNITED STATES OF AMERICA TREASURER\*\*\*  
\*\*\*RE: J.R. SIMPLOT ORLAND SGS\*\*\*

\*\*\$202.50\*\*

\*\*\*Two hundred two dollars and 50 cents\*\*\*

**WELLS FARGO & COMPANY ISSUER**  
420 MONTGOMERY STREET  
SAN FRANCISCO, CA 94163  
PAYABLE AT WELLS FARGO BANK, N.A.  
FOR INQUIRIES CALL (480) 394-3122

NOTICE TO PURCHASER-IF THIS INSTRUMENT IS LOST,  
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION  
AND REISSUANCE. AS A CONDITION TO CANCELLATION AND  
REISSUANCE, WELLS FARGO & COMPANY MAY IMPOSE A  
FEE AND REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 202.50

**NON-NEGOTIABLE**

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06383 11-24  
Office AU # 1210(8)

# OFFICIAL CHECK

0638313044

Operator I.D.: idho1260

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VOID IF OVER US \$ 202.50

*Richard Levy*  
CONTROLLER

⑈0638313044⑈ ⑆121000248⑆4861 505824⑈

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**CERTIFICATE OF SERVICE**

Docket No. CAA-<sup>09</sup>~~9~~-2008- 00 2 6

I hereby certify that the original and a copy of the foregoing Expedited Settlement Agreement, with the Docket Number referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent certified mail (7005-0390-0000-5329-7314), return receipt requested to:

A. Prouty, Corporate Environmental Director  
J.R. Simplot Company  
One Capital Center  
999 Main Street, Suite 1300  
P.O. Box 27  
Boise, Idaho 83707-0027

June 11, 2008  
Date

*Danielle E Carr*

Danielle Carr  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105