

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

** FILED **
30SEP2015 - 11:05AM
U.S.EPA - Region 09

DOCKET NO: CAA (112r)-09-2015-0009

This ESA is issued to: City of San Diego
202 C Street, MS9A
San Diego, CA 92102

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Alvarado Water Treatment Plant, 5540 Klowa Drive, La Mesa, CA 91942

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 San Diego ("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 promptly address the Process Hazard Analysis (PHA) team findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be taken; completed actions as soon as possible; developed a written schedule of when these 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 did not develop or prioritize their PHA actions/findings nor indicate when they were to be completed.

- 2) *Update and revalidate the PHA by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.67(f).*

The facility conducted a PHA What if/checklist for the chlorine process in June 2007. However, the next PHA was not conducted until seven (7) years later, in 2013.

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

The facility conducted a compliance audit in 2013; however, they had not documented appropriate responses to each of the findings. Staff had not yet been assigned to correct the deficiencies and estimated completion dates had not been recorded at the time of the inspection.

- 4) *Correct the emergency contact information (specified in §68.160(b)(6)) within one month of any change in the emergency contact information as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.195(b).*

A retired employee, Douglas Eno, was listed as the Facility's current Emergency Contact in EPA's RMP registration database. Following Mr. Eno's retirement four years ago, Stephen T. Moore was appointed the Emergency Contact person; however, the Facility has not yet updated the RMP registration to reflect the new information.

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 **\$5,300**.

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 **\$5,300** 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 IX
75 Hawthorne Street
San Francisco, CA 94105

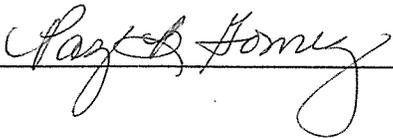
Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities,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

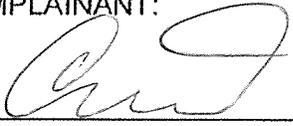
Signature: 

Date: 9/21/15

Name (print): Paz Gomez

Title (print): Deputy Chief Operating Officer, Infrastructure/Public Works

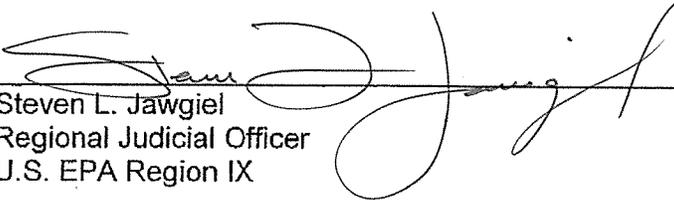
FOR COMPLAINANT:



Date: 9/29/15

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. Jawgiel
Regional Judicial Officer
U.S. EPA Region IX

Date: 09/29/15

CERTIFICATE OF SERVICE

It is hereby certified that the original of the foregoing Expedited Settlement Agreement and included final order in the matter of **City of San Diego (Alvarado Water Treatment Plant)** **Docket No. CAA(112R)-09-2015-0009**, has been filed with the Regional Hearing Clerk and that a true and complete copy was sent by return receipt requested to the following:

Ms. Pat Gomez
Deputy Chief Operating Officer
City of San Diego
202 C Street, MS9A
San Diego, CA 92102

Certified Mail No.: 7001 0320 0002 0253 8690

Date: Sept. 30, 2015



Steven Armsey
Regional Hearing Clerk
EPA – Region 9